



FEDERAL REGISTER

Vol. 89

Monday,

No. 160

August 19, 2024

Pages 66987–67256

OFFICE OF THE FEDERAL REGISTER



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

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

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

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

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

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

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

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

How To Cite This Publication: Use the volume number and the page number. Example: 89 FR 12345.

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202-512-1800
Assistance with public subscriptions	202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	FRSubscriptions@nara.gov
Phone	202-741-6000

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



Contents

Federal Register

Vol. 89, No. 160

Monday, August 19, 2024

Agriculture Department

See Animal and Plant Health Inspection Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67057–67058

Animal and Plant Health Inspection Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Animal Health Monitoring System; Data Security Requirements for Accessing Confidential Data, 67058–67061

Coast Guard

NOTICES

Hearings, Meetings, Proceedings, etc.:
National Merchant Marine Personnel Advisory Committee; September 2024, 67098–67100

Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Institute of Standards and Technology

Defense Department

NOTICES

Charter Amendments, Establishments, Renewals and Terminations:
Board of Visitors, National Defense University, 67074

Education Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
School Pulse Panel 2025–26 Preliminary Field Activities, 67074–67075

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Hearings, Meetings, Proceedings, etc.:
DOE/National Science Foundation Nuclear Science Advisory Committee, 67077–67078
Request for Information:
Interregional and Offshore Wind Transmission, 67075–67077

Environmental Protection Agency

RULES

Air Quality State Implementation Plans; Approvals and Promulgations:
Oregon; Permitting, 66995–67001
Washington; Update to Materials Incorporated by Reference, 67158–67206

PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:
Arizona; Maricopa County Air Quality Department, 67014–67018
Arizona; Maricopa County Air Quality Department; Source-Specific Revision, 67012–67014

Delaware; Regional Haze State Implementation Plan for the Second Implementation Period, 67018–67040
Utah; Regional Haze State Implementation Plan for the Second Implementation Period; Air Plan Disapproval; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards, 67208–67255

Federal Aviation Administration

RULES

Airspace Designations and Reporting Points:
Manchester, NH, 66988–66989
Youngstown, OH, 66987–66988

PROPOSED RULES

Airworthiness Directives:
Pratt and Whitney Engines, 67009–67012

Federal Deposit Insurance Corporation

PROPOSED RULES

Change in Bank Control Act, 67002–67009

Federal Emergency Management Agency

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Administrative Plan for the Hazard Mitigation Grant Program, 67101–67102
Emergency Notification System, 67100–67101

Federal Energy Regulatory Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67079–67081
Combined Filings, 67079, 67082–67084
Environmental Assessments; Availability, etc.:
Rumford Falls Hydro LLC, 67088
Licenses; Exemptions, Applications, Amendments, etc.:
Erie Boulevard Hydropower, LP, 67084–67088
Records Governing Off-the-Record Communications, 67078–67079
Request under Blanket Authorization:
Rockies Express Pipeline LLC, 67088–67090
Transcontinental Gas Pipe Line Co., LLC, 67081–67082

Federal Mediation and Conciliation Service

NOTICES

Privacy Act; Systems of Records, 67090–67093

Foreign Assets Control Office

NOTICES

Sanctions Action, 67154–67155

Foreign-Trade Zones Board

NOTICES

Proposed Production Activity:
voestalpine High Performance Metals LLC d/b/a
voestalpine specialty metals, Foreign-Trade Zone 84,
Houston, TX, 67061–67062

General Services Administration

NOTICES

Maximum Per Diem Reimbursement Rates for the Continental United States, 67093–67094

Health and Human Services Department

See Health Resources and Services Administration
See National Institutes of Health

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 67095–67096

Health Resources and Services Administration**NOTICES**

National Practitioner Data Bank:

Change in User Fee for Self-Query Mailed Paper Copies,
67094–67095

Supplemental Award:

Infant-Toddler Court Program—State Awards, 67094

Homeland Security Department

See Coast Guard

See Federal Emergency Management Agency

Interior Department

See Land Management Bureau

See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 67155

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Procedures for Recovering Reasonable Administrative
Costs, 67155–67156

International Trade Administration**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Application for Export Trade Certificate of Review,
67066–67067

Antidumping or Countervailing Duty Investigations, Orders,
or Reviews:

Certain Softwood Lumber Products from Canada, 67062–
67065, 67067–67071

Crystalline Silicon Photovoltaic Cells, Whether or Not
Assembled into Modules, from the People's Republic
of China; Correction, 67071–67072

Forged Steel Fluid End Blocks from Germany, 67072–
67073

Silicomanganese from India, Kazakhstan, and Venezuela,
67065–67066

International Trade Commission**NOTICES**

Investigations; Determinations, Modifications, and Rulings,
etc.:

Steel Wheels from China, 67102–67103

Justice Department

See Justice Programs Office

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Clearance for Community Relations Service Program
Feedback and Knowledge Gain, 67106–67107

eForm Access Request/User Registration, 67104–67105
Report of Multiple Sale or Other Disposition of Pistols
and Revolvers, 67103–67104

Request for Interim Security Clearance, 67105–67106

Justice Programs Office**NOTICES**

Charter Amendments, Establishments, Renewals and
Terminations:

Coordinating Council on Juvenile Justice and
Delinquency Prevention, 67107

Labor Department

See Occupational Safety and Health Administration

Land Management Bureau**NOTICES**

Plats of Survey:

Wyoming, 67102

National Aeronautics and Space Administration**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Survey of the Use of NASA Earth Observation Data by
States, Tribes, and Territories, 67108

National Archives and Records Administration**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Freedom of Information Act Advisory Committee, 67108–
67109

National Endowment for the Arts**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Shakespeare in American Communities/Juvenile Justice:
Data Collection Forms, 67109–67110

National Foundation on the Arts and the Humanities

See National Endowment for the Arts

National Institute of Standards and Technology**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Manufacturing Extension Partnership Advisory Board,
67073–67074

National Institutes of Health**NOTICES**

Hearings, Meetings, Proceedings, etc.:

National Institute of Diabetes and Digestive and Kidney
Diseases, 67097

National Institute on Aging, 67097–67098

National Library of Medicine, 67096, 67098

Office of the Director, 67096–67097

Occupational Safety and Health Administration**NOTICES**

Hearings, Meetings, Proceedings, etc.:

National Advisory Committee on Occupational Safety
and Health, 67107–67108

Pipeline and Hazardous Materials Safety Administration**PROPOSED RULES**

Pipeline Safety:

Cost Recovery for Siting Reviews for Liquefied Natural
Gas Facilities, 67040–67056

Postal Regulatory Commission**NOTICES**

New Postal Products, 67110

Securities and Exchange Commission**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67114

Meetings; Sunshine Act, 67111

Self-Regulatory Organizations; Proposed Rule Changes:

Cboe BYX Exchange, Inc., 67138–67141

Cboe BZX Exchange, Inc., 67127–67130

Cboe EDGA Exchange, Inc., 67111–67114

Cboe EDGX Exchange, Inc., 67114–67116

Investors Exchange LLC, 67133–67138

MEMX LLC, 67124–67127

Nasdaq GEMX, LLC, 67117–67120

Nasdaq MRX, LLC, 67130–67133

New York Stock Exchange LLC, 67120–67124

NYSE Arca, Inc., 67110–67111

Public Company Accounting Oversight Board, 67117

Social Security Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 67141–67144

State Department**NOTICES**

Bureau of Political-Military Affairs:

Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses, 67146–67154

Proposed Establishment of Federally Funded Research and Development Centers, 67144–67145

Surface Mining Reclamation and Enforcement Office**RULES**

Regulatory Program:

Pennsylvania, 66989–66991

Transportation Department

See Federal Aviation Administration

See Pipeline and Hazardous Materials Safety Administration

Treasury Department

See Foreign Assets Control Office

See Internal Revenue Service

Veterans Affairs Department**RULES**

Bar to Approval, 66991–66995

Separate Parts In This Issue**Part II**

Environmental Protection Agency, 67158–67206

Part III

Environmental Protection Agency, 67208–67255

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

12 CFR	
Proposed Rules:	
303.....	67002
14 CFR	
71 (2 documents)	66987,
	66988
Proposed Rules:	
39.....	67009
30 CFR	
938.....	66989
38 CFR	
21.....	66991
40 CFR	
52 (2 documents)	66995,
	67158
Proposed Rules:	
52 (4 documents)	67012,
	67014, 67018, 67208
49 CFR	
Proposed Rules:	
190.....	67040

Rules and Regulations

Federal Register

Vol. 89, No. 160

Monday, August 19, 2024

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

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2513; Airspace Docket No. 23–AGL–26]

RIN 2120–AA66

Amendment of Jet Route J–211 and Revocation of VOR Federal Airway V–41; Youngstown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Jet Route J–211 and revokes Very High Frequency Omnidirectional Range (VOR) Federal Airway V–41. The FAA is taking this action due to the planned decommissioning of the VOR portion of the Youngstown, OH (YNG), VOR/Tactical Air Navigation (VORTAC) navigational aid (NAVAID). The Youngstown VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of

Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Air Traffic Service (ATS) route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2023–2513 in the **Federal Register** (88 FR 89342; December 27, 2023), proposing to amend Jet Route J–211 and revoke VOR Federal Airway V–41 due to the planned decommissioning of the VOR portion of the Youngstown, OH, VORTAC NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Incorporation by Reference

Jet Routes are published in paragraph 2004 and VOR Federal Airways are published in paragraph 6010(a) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO

7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by amending Jet Route J–211 and revoking VOR Federal Airway V–41 due to the planned decommissioning of the VOR portion of the Youngstown, OH, VORTAC. The ATS route actions are described below.

J–211: Prior to this final rule, J–211 extended between the Youngstown, OH, VORTAC and the Westminster, MD, VORTAC. The airway segment between the Youngstown VORTAC and the Johnstown, PA, VOR/DME (Distance Measuring Equipment) is removed. Additionally, the route description is reversed to reflect a south to north orientation of the route points consistent with odd numbered route description requirements. As amended, the route is changed to now extend between the Westminster VORTAC and the Johnstown VOR/DME.

V–41: Prior to this final rule, V–41 extended between the intersection of the Briggs, OH, VOR/DME 077° and Youngstown, OH, VORTAC 177° radials (CUTTA Fix) and the Youngstown VORTAC. The airway is removed in its entirety.

The NAVAID radials listed in the Jet Route J–211 description in the regulatory text of this final rule are unchanged and stated in degrees True north.

Regulatory Notices and Analyses

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

promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph 5–6.5i, which categorically excludes from further environmental impact review the establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); procedures conducted below 3,000 feet AGL that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved procedures conducted below 3,000 feet AGL that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

Authority: 49 U.S.C. 106(f), 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 2004 Jet Routes.

* * * * *

J–211 [Amended]

From Westminster, MD; INT Westminster 292° and Johnstown, PA, 130° radials; to Johnstown.

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–41 [Removed]

* * * * *

Issued in Washington, DC, on August 13, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–18431 Filed 8–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–1361; Airspace Docket No. 24–ANE–5]

RIN 2120–AA66

Revocation of Class E Airspace; Manchester, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E surface airspace for Manchester Boston Regional Airport, Manchester, NH, as the overlying Class C airspace deems the Class E surface airspace unnecessary.

DATES: Effective 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are

available on the website. It is available 24 hours a day, 365 days a year.

FAA Order JO 7400.11H, Airspace Designations, and Reporting Points, as well as subsequent amendments, can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT:

Joseph Kann, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5576.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2024–1361 in the **Federal Register** (89 FR 43347; May 17, 2024), proposing to revoke Class E airspace extending upward from 700 feet above the surface for Manchester Boston Regional Airport, Manchester, NH. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES**

section of this document. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 removes Class E airspace extending upward from 700 feet above the surface at Manchester Boston Regional Airport, Manchester, NH, as the overlying Class C airspace deems the Class E surface airspace unnecessary. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11H, 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.

* * * * *

ANE NH E2 Manchester, NH [Removed]

* * * * *

Issued in College Park, Georgia, on August 13, 2024.

Patrick Young,

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

[FR Doc. 2024–18435 Filed 8–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[SATS No. PA–175–FOR; Docket ID: OSM–2022–0003; S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are removing our disapproval of two provisions of the Pennsylvania regulatory program (the Pennsylvania program) that we have previously addressed, but which remained codified in the Code of Federal Regulations (CFR). The disapprovals are no longer necessary because Pennsylvania subsequently submitted and obtained OSMRE approval of revised regulations.

DATES: Effective August 19, 2024.

FOR FURTHER INFORMATION CONTACT: Ben Owens, Acting Field Office Director,

Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2827, Email: bowens@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion of Final Rule

II. Statutory and Executive Order Reviews

I. Discussion of Final Rule

By letter dated March 7, 2022 (SATS No. PA–175–FOR; Administrative Record No. OSM–2022–0003), Pennsylvania requested that we remove our previous disapprovals at 30 CFR 938.12(e)(1) and (2), which disapproved proposed 2006 revisions to Pennsylvania’s regulations at Title 25 of the Pennsylvania Code (Pa. Code) 86.17(e) and 86.283(c). Pennsylvania believes that removal of the disapprovals will clarify that the deficiencies noted in the CFR were resolved and that no further action by Pennsylvania is required.

On May 23, 2006, Pennsylvania sent us an amendment to revise its program regulations at Title 25 of the Pa. Code (SATS No. PA–147–FOR; Administrative Record No. PA 793.11) in response to five required program amendments. See 72 FR 19117 (Apr. 17, 2007). The proposed amendment also included four additional changes, which were made at Pennsylvania’s own initiative. Two of the four additional changes that Pennsylvania proposed concerned money received from reclamation fees intended to supplement funding for the reclamation bond pool that supported its Alternative Bonding System (ABS). Pennsylvania contended that there was no longer a basis for maintaining the reclamation fee because the State had discontinued its ABS and revised its bonding regulations to require that all mine permits post a full-cost reclamation bond. Pennsylvania submitted a request to discontinue the collection of the \$100 per acre reclamation fee authorized under 25 Pa. Code 86.17(e) by proposing the following sentence: “This fee shall not be required after (effective date of this rulemaking).”

Pennsylvania also proposed to amend Title 25 of the Pennsylvania Code by removing section 86.283(c) because it referenced the reclamation fee in relation to mine operators approved to participate in the reining financial guarantees program. Pennsylvania submitted the amendment to create consistency with the proposed amendment to section 86.17(e) that would delete the reclamation fee.

While we approved the other requested changes related to PA–147–FOR, we deferred our decision on the

two changes pertaining to the discontinuation of a \$100 per acre reclamation fee. We deferred our decision because aspects of Pennsylvania's decision to eliminate its ABS in favor of a conventional, or "full-cost," bonding system had been challenged, and the matter was pending before the United States Court of Appeals for the Third Circuit in *Pennsylvania Federation of Sportsmen's Clubs v. Kempthorne*, 497 F.3d 337 (3d Cir. 2007). The Third Circuit in *Kempthorne* set aside our decision to rescind a requirement that we imposed on Pennsylvania in 1991, which had required Pennsylvania to submit information sufficient to demonstrate that the revenues generated by the collection of the reclamation fee under 25 Pa. Code 86.17(e) would assure that the State's bond pool fund satisfied our bonding requirements at 30 CFR 800.11(e). Following the *Kempthorne* decision, we disapproved Pennsylvania's proposed deletion of the reclamation fee under 25 Pa. Code 86.17(e) and related reference in 25 Pa. Code 86.283(c), *see* 73 FR 38918 (July 8, 2008), and reinserted the 1991 required amendment at 30 CFR 938.16(h), *see* 74 FR 12265 (Mar. 24, 2009).

Likewise, Pennsylvania revised its program to comply with the Third Circuit's judgment in *Kempthorne*. On August 1, 2008, Pennsylvania submitted a number of revisions that, among other things, retained the reclamation fee under 25 Pa. Code 86.17(e), making it adjustable on an annual basis in lieu of a fixed \$100 per acre fee, and retained the related reference in 25 Pa. Code 86.283(c). On August 10, 2010, we approved Pennsylvania's revision to 25 Pa. Code 86.17(e) and retention of 25 Pa. Code 86.283(c). *See* 75 FR 48526 (Aug. 10, 2010). The 2010 approval resolved our initial disapproval of Pennsylvania's proposed elimination of the reclamation fee. It also meant that the disapprovals at 30 CFR 938.12(e)(1) and (2) became moot. At Pennsylvania's request, we are removing 30 CFR 938.12(e)(1) and (2) in this final rule.

This final rule, which removes our disapproval of Pennsylvania's 2006 proposed amendment, does not entail any new substantive decisions on this or any other part of the Pennsylvania program, nor does it alter the terms of any of our prior decisions. Pennsylvania's letter of March 7, 2022, confirms that the state has implemented and will continue to implement 25 Pa. Code 86.17(e) and 25 Pa. Code 86.283(c) of its regulations in a manner consistent with our 2010 approval of the 2008 amendment.

II. Statutory and Executive Order Reviews

Administrative Procedure Act

We are publishing this final rule without prior public notice or opportunity for public comment. The Administrative Procedure Act, 5 U.S.C. 533, provides an exception to notice and comment requirements when an agency finds that there is good cause for dispensing with notice and comment procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(3)(B), good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule.

Specifically, we have determined that notice and comment is unnecessary for this rule because it is non-substantive. As discussed above, this rule removes provisions concerning now-moot state program disapprovals for Pennsylvania that remained codified at 30 CFR 938.12(e). This rule neither imposes new regulatory requirements nor removes any existing regulatory requirements.

For the same reasons, we find that good cause exists under 5 U.S.C. 533(d)(3) to have the regulation become effective on a date that is less than 30 days after the date of publication in the **Federal Register**.

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in private property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on the nature of this rule, in which we do not make any substantive decision.

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

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance (OMB Memo M–94–3), dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094.

Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations.

Executive Order 13132—Federalism

This rule has no potential Federalism implications as defined under section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to "grant the States the maximum administrative discretion possible" with respect to Federal statutes and regulations administered by the States. Pennsylvania, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule only corrects the CFR to reflect our prior disapprovals of the Pennsylvania program submitted and drafted by the State, and thus, has no effect on the maximum administrative discretion we are directed to give to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our

decision on the Pennsylvania program does not include Indian lands as defined by SMCRA or other Tribal lands and it does not affect the regulation of activities on Indian lands or other Tribal lands. Indian lands under SMCRA are regulated independently under the applicable Federal Indian program. The Department's consultation policy also acknowledges that our rules may have Tribal implications where the state proposing the amendment encompasses ancestral lands in areas with minable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, requests that we correct the CFR to accurately reflect our

prior approval of parts of the Pennsylvania program, and therefore, would not have a significant economic effect upon a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on the nature of this rule, in which we do not make any substantive decision.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on the nature of this rule, in which we do not make any substantive decision. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic—Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

PART 938—PENNSYLVANIA

■ 1. The authority citation for part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 938.12 Amended]

■ 2. In § 938.12, remove paragraph (e) and redesignate paragraph (f) as paragraph (e).

[FR Doc. 2024–18512 Filed 8–16–24; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AQ99

Bar to Approval

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern VA's administration of educational assistance programs to implement a provision of the Veterans Benefits and Transition Act of 2018, which requires a State Approving Agency (SAA), or the Secretary of Veterans Affairs (when acting as the SAA), to disapprove programs of education provided by educational institutions that do not permit individuals using benefits under certain VA educational assistance programs to attend or participate in courses while awaiting payment from VA or that impose a penalty on an individual for failure to meet financial obligations due to a delayed VA payment. VA is also implementing a provision that allows educational institutions to require a claimant using educational benefits to submit certain documents and to pay certain fees or charges if VA delays payment and ultimately pays less than what an educational institution anticipated receiving.

DATES:

Effective date: This rule is effective September 18, 2024.

Applicability date: The provisions of this final rule shall apply to all terms that began on or after August 1, 2019.

FOR FURTHER INFORMATION CONTACT:

Thomas Alphonso, Assistant Director, Policy and Procedures, Education Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9800. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 27, 2023, VA published a proposed rule in the **Federal Register** at 88 FR 12293 to amend its regulations to require an SAA, or the Secretary of Veterans Affairs when acting as an SAA, to disapprove programs of education that do not permit individuals using benefits under either Chapter 31 or Chapter 33 to attend or participate in courses while awaiting payment from VA, and to implement other provisions of the Veterans Benefits and Transition Act of 2018, Public Law 115–407. The 60-day comment period ended on April 28, 2023.

VA received comments from five commenters in response to the proposed

rule. While all commenters expressed some support for this rule, some requested additional information about its provisions or about implementation procedures. Further, some commenters stated that the rulemaking may have adverse effects on stakeholders. The comments are addressed below. In addition, we have included an applicability date in this final rule to conform to 38 U.S.C. 3679(e)(1) and to make clear that we have been applying, and will continue to apply, the statutory requirements reflected in this rule to all terms that began on or after August 1, 2019, and we have also included a technical edit in new 38 CFR 21.4269(d)(1)(i).

Changes to Section 103

One commenter requested that VA clarify changes it is making to section 103 of Public Law 115–407. As we stated in the proposed rule, section 103 added subsection (e) to 38 U.S.C. 3679, among other things, to require an SAA, or VA when acting as an SAA, to disapprove programs of education that do not permit individuals using Chapter 31 or Chapter 33 benefits to attend or participate in courses while awaiting payment from VA, a requirement not previously in the law. The commenter appears to be conflating public laws enacted by Congress and regulations promulgated by agencies such as VA. This rulemaking implements section 103 at 38 CFR 21.4269; VA is not making any changes to section 103 of Public Law 115–407 because VA has no authority to change laws.

VA makes no changes to the rule based on this comment.

Release of Financial Aid Funds

One commenter requested clarification regarding the release of a student's financial aid funds while the educational institution awaits tuition and fees payments from VA. Section 3679(e)(1)(B) provides that educational institutions are prohibited from employing policies requiring students to borrow additional funds to pay tuition and fees so the institutions are paid in advance of VA benefit payments while the institutions await VA payments. As the commenter noted, the law does not address educational institutions' obligations with regard to the release of financial aid funds. The use of Federal student financial aid is administered by the Department of Education (ED). Therefore, ED would be in the best position to answer questions concerning the use and release of financial aid funds.

VA makes no changes to the rule based on this comment.

Chapter 35 Beneficiary

One commenter requested additional clarification regarding the application of this rulemaking to Chapter 35 recipients. Section 3679(e), as added by section 103 of Public Law 115–407, requires schools to maintain certain policies applicable only to Chapter 31 and 33 beneficiaries. Effective November 30, 2021 (applicable to academic periods beginning August 1, 2022), Public Law 117–68 revised section 3679(e) to require schools to maintain the policies with regard to Chapter 35 beneficiaries as well. VA does not pay tuition and fees to schools under Chapter 35, but instead pays a statutory flat rate directly to Chapter 35 beneficiaries. 38 U.S.C. 3532. Consequently, schools do not need to certify Chapter 35 tuition and fee payments, and students do not need to demonstrate to the school entitlement to Chapter 35 benefits. Thus, regardless of the statutory revision, there are no school policies about restricting Chapter 35 program participation or imposing a penalty for delayed VA payment of Chapter 35 benefits that would be relevant to Chapter 35 beneficiaries. Nonetheless, in light of the statutory revision, we understand the commenter's confusion. Accordingly, to make it clear that the regulatory requirement would in theory apply to Chapter 35 beneficiaries, and for consistency with the authorizing statute, we are adding “chapter 35” in the final rule where applicable.

Enrollment Manager for Eligibility Verification

One commenter requested additional clarification regarding the definition of “certificate of eligibility,” specifically with regard to the newly released VA system Enrollment Manager (EM), a modernized platform used by school certifying officials (SCO), and its role in certifying student enrollments and verifying a students' eligibility for VA education benefits. As we explained in the proposed rule, we interpret section 3679(e)'s reference to “certificate of eligibility” as not referring to a specific VA document that could serve as eligibility documentation but, rather, as referring to any authoritative documentation provided by VA that serves to verify eligibility under Chapter 31 or 33. While EM allows SCOs to access a Chapter 33 student's entitlement information, such access is limited. A student's information is only accessible through EM if the student has allowed such access. Per 38 U.S.C. 3699A(b), a student may elect not to provide their entitlement information to

a school through EM. Furthermore, the EM platform does not provide entitlement information for Chapter 31 student beneficiaries. Nonetheless, an SCO's use of EM to verify a student's remaining Chapter 33 benefits is an acceptable form of authoritative documentation for Chapter 33 beneficiaries who have not exercised their right under section 3699A(b) to block the sharing of their information with schools. Thus, we have clarified its acceptability in the final rule at § 21.4269(a)(1).

Administrative Burdens

One commenter described the many benefits of the new rule but expressed a number of concerns, including a potential increase in the administrative burden on both educational institutions and VA. The commenter stated that educational institutions may be required to change or update their policies and that VA would require more funding to ensure educational institutions' compliance with the rule. VA does not believe that there will be increased administrative burdens associated with this rule. SAAs are generally responsible for the approval or disapproval of education and training programs in their respective states. According to VA's internal compliance records, implementation of section 3679(e) has not created an additional administrative burden on SAAs. Since August 1, 2019, the date VA began implementing the statutory provision, no educational institution has been disapproved due to a violation of section 3679(e), and additional Federal funds have not been required to enforce this provision.

Also, while educational institutions are required to provide notice to enrolled and prospective students of any information required for certification of students' enrollment in addition to the information enumerated in their online or print catalogs, VA surveyed multiple educational institutions and found that all have an online catalog that can be easily updated with this required notice in approximately two hours, per data provided by these schools. Consequently, we believe that the provisions of this rule do not pose an undue administrative burden on educational institutions. And there would be no additional burden on VA because, as stated, SAAs, rather than VA, are generally responsible for the approval or disapproval of education and training programs.

Therefore, VA makes no changes to the rule based on this comment.

Program Options

Two commenters expressed concern that there could be a reduction in the number of educational program options available to Veterans because non-compliant educational institutions will be disapproved by SAAs. While we understand that if a school is disapproved, options for Veteran students will decrease, VA compliance records show that no educational institutions have been disapproved due to a violation of section 3679(e) since August 1, 2019, when VA began implementing this law. Moreover, there is unlikely to be an increase in disapprovals because schools that are approved to receive GI Bill benefits generally receive a percent of their revenue, which can be substantial, from VA payments, and therefore, they have an incentive to comply with the law and maintain their approval. Thus, we do not believe that the rule will result in fewer educational opportunities for Veterans.

Relatedly, one commenter stated that SAAs should not automatically disapprove programs that are non-compliant and suggested alternative enforcement mechanisms that would not limit educational opportunities. Although statutory authority requires disapproval of schools for failure to comply with the requirements of section 3679(e)(1), SAAs do not “automatically” disapprove non-compliant programs for violating section 3679(e)(1). If an SAA determines that an educational institution is not in compliance with this provision, the appropriate corrective action most often is suspension of the approval of a course for new enrollments, in accordance with 38 CFR 21.4259. Under § 21.4259(a), the SAA gives the educational institution 60 days to come into compliance. Additionally, section 3679(e)(3) gives the Secretary discretionary authority to waive the requirements of section 3679(e)(1). In this final rule, VA is requiring in § 21.4269(c) that an educational institution request a waiver within the same 60-day period, to ensure that an SAA does not withdraw approval when waiver may be warranted. Only if the educational institution does not come into compliance or request a waiver within 60 days will the SAA withdraw approval under section 3679. Further, if an SAA determines an educational institution’s non-compliance is due to reasons outside of the educational institution’s direct control (e.g., action is required by the state legislature), the SAA may recommend that the educational institution request a waiver

from VA. Because disapprovals are not automatic, as the commenter suggests, and because they serve as a disincentive to non-compliance limiting the number of disapprovals, they are unlikely to restrict Veterans’ educational training options.

Accordingly, to ensure that educational institutions are aware that they must apply for a waiver within the 60-day period following a determination of non-compliance, VA is including this requirement in § 21.4269(c).

Restoration of Entitlement

One commenter expressed concern regarding the burden students enrolled in educational institutions that are disapproved due to non-compliance under section 3679(e) would have to bear and suggested restoring entitlement to educational benefits for these students. Section 3699 provides VA with authority to restore entitlement when an educational institution or program has closed or has been disapproved due to a change in law or VA regulations. Also, the Veterans Eligible to Transfer School (VETS) Credit Act, Public Law 117–297, which modified this provision, made it easier for students to apply for restoration of entitlement. Specifically, for any covered closure or disapproval on or after December 27, 2022, students do not need to enroll in a new school prior to applying for restoration of benefits. Hence, if a training institution has been disapproved due to a violation of section 3679(e), affected students may not lose their entitlement in certain circumstances.

VA makes no changes to the rule based on this comment.

Intent To Use Benefits

One commenter requested that VA change the term “request” to “notice” in § 21.4269(d)(1)(ii), because if a student submits a “request” to use their GI Bill benefits at a specific educational institution instead of a “notice,” the educational institution may deny the student’s request. The commenter also requested that VA create a uniform form a student can use to inform an educational institution that they intend to use their GI Bill benefits. Section 3679(e)(4)(B) states that a student must “[s]ubmit a written *request* to use such entitlement” (emphasis added). We are parroting the statutory language in our regulation to ensure proper implementation and avoid misinterpretations. In any event, approved educational institutions lack the authority to deny an eligible student’s request to use their VA benefits for a GI Bill approved program

as long as the eligible student has remaining entitlement.

Further, we believe that requiring a student to use a form developed by VA would increase their administrative burden and could make it harder for them to obtain relief, *i.e.*, schools could attempt to withhold benefits if a student does not submit the correct form. VA disagrees with the commenter and, in fact, believes it is beneficial for students to be permitted to use any type of notification to request use of entitlement, and not be limited to a specific Federal Government form when dealing directly with a non-government educational institution.

Accordingly, VA makes no changes to the rule based on this comment.

Expected VA Funding

One commenter asked that VA clarify why there would be a cost difference between the amount of funds expected by an educational institution from VA and the amount of funds the educational institution receives. The certificate of eligibility that VA issues as proof of a student’s eligibility for educational benefits includes the number of months of entitlement but does not contain “an itemization of the amount of benefits allocated to a student for tuition and fees, housing, and supplies” as the commenter suggested. The amount of payment is dependent on the program of education a student is enrolled in, any statutory caps on certain VA benefits, and the student beneficiary’s benefit level. Not all Post-9/11 GI Bill beneficiaries qualify at the 100% benefit level, which means that not all beneficiaries receive full payment. A school likely would not be able to calculate the VA payment amount for a beneficiary who is eligible for benefits at a percentage less than 100% and, thus, would not know in advance how much to expect to receive from VA on behalf of this beneficiary.

VA makes no changes to the rule based on this comment.

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and

promoting flexibility. Executive Order 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). Although this final rule includes provisions that entail costs to training institutions, such as the loss of late fees that institutions are prohibited from assessing when a student is unable to meet financial obligations to the institution, and the cost of publication of the requirements for submitting additional information needed for certifying enrollment, the provisions merely restate existing provisions of statute, and thus will have no additional impact on such small entities. Therefore, under 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule includes a provision constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The new collection of information requires approval by the Office of Management and Budget (OMB) and assignment of an OMB

Control Number. Accordingly, under 44 U.S.C. 3507(d), VA submitted a copy of this rulemaking action to OMB for review and approval. VA received no comments on the new collection of information.

An OMB Control Number of 2900–0925 has been assigned to the new collection of information associated with this final rule. Assignment of this OMB control number is not an approval to conduct or sponsor an information collection under the Paperwork Reduction Act of 1995. In accordance with 5 CFR 1320, the new collection of information associated with this rulemaking is not approved by OMB at this time. OMB's approval of the new collection of information will occur within 30 days after the final rulemaking publishes. If OMB does not approve the new collection of information as requested, VA will immediately remove the provision containing a new collection of information or take such other action as is directed by OMB.

The new collection of information associated with this rulemaking contained in 38 CFR 21.4269 is described immediately following this paragraph, under its respective title.

Title: Publishing of Requirement to Submit Additional Information Necessary for Certification of Enrollment.

OMB Control No: 2900–0925.

CFR Provision: 38 CFR 21.4269(d)(1)(iii).

- *Summary of collection of information:* This new collection of information in § 21.4269(d)(1)(iii) will require educational institutions to give notice to enrolled and potential students of any information in addition to the information already enumerated in their catalogs that the educational institution requires for certification of claimants' enrollment. The educational institutions will be required to publish any additional information, after it is approved by the SAA, in their online or print catalogs.

- *Description of need for information and proposed use of information:* The information collected will be used by VA to facilitate VA's oversight of educational institutions and to ensure their compliance with § 21.4269.

- *Description of likely respondents:* Educational institutions.

- *Estimated total number of respondents:* 16,084 educational institutions.

- *Estimated frequency of responses:* Once.

- *Estimated average burden per response:* Two hours or less.

- *Estimated total annual reporting and recordkeeping burden:* VA estimates the total annual reporting and recordkeeping burden to be 32,168 burden hours. Using the annual number of responses, VA estimates a total annual reporting and recordkeeping burden of 32,168 hours for respondents.

- *Estimated cost to respondents per year:* VA estimates the annual cost to respondents to be \$901,025.68 (16,084 respondents per year × 2 hours per application × \$28.01*).

* To estimate the total information collection burden cost, VA used the Bureau of Labor Statistics (BLS) median hourly wage for “all occupations” of \$28.01 per hour. This information is available at: https://www.bls.gov/oes/current/oes_nat.htm#13-0000.

Assistance Listing

The Assistance Listing numbers and titles for the programs affected by this document are: 64.027, Post-9/11 Veterans Educational Assistance; 64.028, Post-9/11 Veterans Educational Assistance; 64.032, Montgomery GI Bill Selected Reserve; Reserve Educational Assistance Program; 64.117, Survivors and Dependents Educational Assistance; 64.120, Post-Vietnam Era Veterans' Educational Assistance; 64.124, All-Volunteer Force Educational Assistance.

Severability

The purpose of this section is to clarify the agency's intent with respect to the severability of provisions of this final rule. Each provision that the agency is promulgating is capable of operating independently. If any provision of this rule is determined by judicial review or operation of law to be invalid, that partial invalidation will not render the remainder of this rule invalid. Likewise, if the application of any portion of this rule to a particular circumstance is determined to be invalid, the agency intends that the rule remain applicable to all other circumstances.

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not satisfying the criteria under 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Claims, Colleges and universities, Education, Employment, Reporting and recordkeeping requirements, Schools,

Veterans, Vocational education, Vocational rehabilitation.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on August 12, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 21 as set forth below:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

■ 1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 33, 34, 35, 36, and as noted in specific sections

■ 2. Add § 21.4269 to read as follows:

§ 21.4269 Bar to approval.

(a) Beginning on August 1, 2019, a State approving agency, or the Secretary when acting in the role of the State approving agency, shall disapprove a program of education provided by an educational institution that has in effect a policy that is inconsistent with any of the following:

(1) A policy that permits any covered individual to attend or participate in the program of education during the period beginning on the date on which the individual provides to the educational institution any verifiable and authoritative VA document demonstrating entitlement to educational assistance under 38 U.S.C. chapter 31, chapter 33, or chapter 35 (such as a decision or notice of decision on entitlement, letter from VA, updated award letter from VA, or print-out of eligibility (statement of benefits) from a web-based VA system or beneficiary portal to include verification through VA's secure information technology system in accordance with 38 U.S.C. 3699A if an individual has provided

authorization to obtain remaining entitlement information), and ending on the earlier of the following dates:

(i) The date on which payment from VA is made to the institution.

(ii) The date that is 90 days after the date on which the educational institution certifies tuition and fees following receipt of the verifiable and authoritative VA document proving entitlement to educational assistance under 38 U.S.C. chapter 31, chapter 33, or chapter 35.

(2) A policy that ensures an educational institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that a covered individual borrow additional funds, on any covered individual because of the individual's inability to meet his or her financial obligations to the institution due to the delayed disbursement of a payment to be provided by VA under 38 U.S.C. chapter 31, chapter 33, or chapter 35.

(b) For purposes of this section, a covered individual is any individual who is entitled to educational assistance under 38 U.S.C. chapter 31, chapter 33, or chapter 35.

(c) The Secretary (or designee) may waive such requirements of paragraph (a) of this section as the Secretary (or designee) considers appropriate. An educational institution must apply for a waiver within 60 days of the SAA determination that an educational institution is not in compliance with paragraph (a).

(d) It shall not be inconsistent with a policy described in paragraph (a) of this section for an educational institution:

(1) To require a covered individual to take the following additional actions:

(i) Submit any verifiable and authoritative VA document to prove entitlement to educational assistance under 38 U.S.C. chapter 31, chapter 33, or chapter 35 (as described in paragraph (a)(1)) not later than the first day of a program of education for which the individual has indicated the individual wishes to use the individual's entitlement to educational assistance.

(ii) Submit a written request to use such entitlement.

(iii) Provide additional information necessary to the proper certification of enrollment by the educational institution. If an educational institution intends to require additional

information necessary for proper certification of enrollment, any such requirement must be included in the school's published catalog and also must be approved by the State approving agency, or the Secretary when acting in the role of the State approving agency, as being necessary for proper certification and not overly burdensome to submit.

(2) In a case in which a covered individual is unable to meet a financial obligation to an educational institution due to the delayed disbursement of a payment to be provided by VA under 38 U.S.C. chapter 31, chapter 33, or chapter 35 and the amount of such disbursement is less than the educational institution anticipated, to require additional payment of or impose a fee for the amount that is the difference between the amount of the financial obligation and the amount of the disbursement.

(i) Such additional payment may include the amount of a financial obligation associated with charges for which VA does not pay benefits (*e.g.*, room and board, any portion of tuition for which a claimant does not qualify).

(ii) An educational institution may utilize its standard debt collection policies for these amounts, including the assessment of late fees.

(Authority: 38 U.S.C. 3679(e))

[FR Doc. 2024–18345 Filed 8–16–24; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2023–0438, FRL–11366–02–R10]

Air Plan Approval; OR; Permitting Rule Revisions

Correction

In Rule Document 2024–15748, appearing on pages 59610–59620, in the issue of Tuesday, July 23, 2024, make the following correction:

Beginning on page 59614, section 52.1970, Table 2 should read as follows:

§ 52.1970 Identification of plan [Corrected].

* * * * *

(c) * * *

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR) ¹

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Division 200—General Air Pollution Procedures and Definitions				
*	*	*	*	*
200–0020	General Air Quality Definitions	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
200–0025	Abbreviations and Acronyms	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
200–0035	Reference Materials	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
Division 204—Designation of Air Quality Areas				
*	*	*	*	*
Designation of Areas				
204–0300	Designation of Sustainment Areas ...	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
204–0310	Designation of Reattainment Areas	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
Division 206—Air Pollution Emergencies				
206–0010	Introduction	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
Division 208—Visible Emissions and Nuisance Requirements				
*	*	*	*	*
Visible Emissions				
208–0110	Visible Air Contaminant Limitations ..	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
Division 209—Public Participation				
*	*	*	*	*
209–0080	Issuance or Denial of a Permit	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Division 210—Stationary Source Notification Requirements				

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR) ¹—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Registration				
210–0100	Registration in General	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
Notice of Construction and Approval of Plans				
210–0205	Applicability and Requirements	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Except paragraph (3).
340–210–0225	Types of Construction/Modification Changes.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
210–0230	Types of Notice to Construct Application.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
210–0240	Construction Approval	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
210–0250	Approval to Operate	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
Division 214—Stationary Source Reporting Requirements				
*	*	*	*	*
Reporting				
214–0110	Request for Information	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
214–0114	Records; Maintaining and Reporting	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
214–0130	Reporting: Information Exempt from Disclosure.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
*	*	*	*	*
Division 216—Air Contaminant Discharge Permits				
216–0020	Applicability and Jurisdiction	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0025	Types of Permits	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0040	Application Requirements	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR) ¹—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
216–0054	Short Term Activity ACDPs	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0056	Basic ACDPs	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0060	General Air Contaminant Discharge Permits.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0064	Simple ACDPs	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0066	Standard ACDPs	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0068	Simple and Standard ACDP Attachments.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0082	Expiration, Termination, Reinstatement or Revocation of an ACDP.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–0084	Department Initiated Modification	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–8010	Table 1—Activities and Sources	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
216–8020	Table 2—Air Contaminant Discharge Permits.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Except paragraph (2) and Table 2.
Division 222—Stationary Source Plant Site Emission Limits				
222–0020	Applicability and Jurisdiction	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Criteria for Establishing Plant Site Emission Limits				
222–0035	General Requirements for Establishing All PSELs.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
222–0041	Annual PSELs	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
222–0042	Short Term PSEL	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
222–0046	Netting Basis	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Division 224—New Source Review				

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR) ¹—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
224–0030	New Source Review Procedural Requirements.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Net Air Quality Benefit Emission Offsets				
224–0520	Requirements for Demonstrating Net Air Quality Benefit for Ozone Areas.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
224–0530	Requirements for Demonstrating Net Air Quality Benefit for Non-Ozone Areas.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Division 225—Air Quality Analysis				
225–0030	Procedural Requirements	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
225–0050	Requirements for Analysis in PSD Class I and Class III Areas.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
225–0070	Requirements for Demonstrating Compliance with Air Quality related Values Protection.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Division 226—General Emission Standards				
Highest and Best Practicable Treatment and Control				
226–0100	Policy and Application	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
226–0130	Typically Achievable Control Technology (TACT).	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
226–0140	Additional Control Requirements for Stationary Sources of Air Contaminants.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Grain Loading Standards				
226–0210	Grain Loading Standards: Particulate Emission Limitations for Sources Other Than Fuel Burning Equipment, Refuse Burning Equipment and Fugitive Emissions.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
Division 228—Requirements for Fuel Burning Equipment and Fuel Sulfur Content				

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR) ¹—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
General Emission Standards for Fuel Burning Equipment				
228–0210	General Emission Standards for Fuel Burning Equipment: Grain Loading Standards.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	*
*	*	*	*	*
Division 232—Emission Standards for VOC Point Sources				
232–0030	Definitions	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	*
232–0040	General Non-Categorical Requirements.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	*
232–0090	Bulk Gasoline Terminals Including Truck and Trailer Loading.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	*
232–0160	Surface Coating in Manufacturing	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	*
232–0170	Aerospace Component Coating Operations.	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	*
*	*	*	*	*
Division 234—Emission Standards for Wood Products Industries				
234–0010	Definitions	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Except (8) and (10).
*	*	*	*	*
Kraft Pulp Mills				
234–0210	Emission Limitations	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Except references to total reduced sulfur.
*	*	*	*	*
Division 236—Emission Standards for Specific Industries				
*	*	*	*	*
Hot Mix Asphalt Plants				
236–8010	Process Weight Table	3/1/2023	7/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	*

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR) ¹—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*

[FR Doc. C1-2024-15748 Filed 8-16-24; 8:45 am]

BILLING CODE 0099-10-P

Proposed Rules

Federal Register

Vol. 89, No. 160

Monday, August 19, 2024

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064–AG04

Regulations Implementing the Change in Bank Control Act

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing to amend its filing requirements and processing procedures for notices filed under the Change in Bank Control Act (CBCA) by removing the exemption from the notice requirement for acquisitions of voting securities of a depository institution holding company with an FDIC-supervised subsidiary institution for which the Board of Governors of the Federal Reserve System (FRB) reviews a notice under the CBCA and by making conforming definitional changes. The FDIC also seeks information and comment regarding its approach to change in control notices under the CBCA with regard to persons who may be directly or indirectly exercising control over an FDIC-supervised institution. The FDIC is committed to developing an interagency approach to change in control notices with the FRB and the Office of the Comptroller of the Currency.

DATES: Comments must be received by October 18, 2024.

ADDRESSES: You may submit comments, identified by RIN 3064–AG04, by any of the following methods

- *Agency website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Follow instructions for submitting comments on the FDIC's website.

- *Email:* Comments@fdic.gov. Include “Change in Bank Control Act/RIN 3064–AG04” in the subject line of the message.

- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Change in Bank Control Act—RIN 3064–AG04, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW, building (located on F Street NW) on business days between 7:00 a.m. and 5:00 p.m. eastern time.

- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Annmarie Boyd, Senior Counsel, 202–898–3714, aboyd@fdic.gov; Gregory S. Feder, Counsel, 202–898–8724, gfeder@fdic.gov; Nicholas A. Simons, Senior Attorney, 202–898–6785, nsimons@fdic.gov; Legal Division; Derek Sturtevant, Senior Review Examiner, 202–898–3693, dsturtevant@fdic.gov; Division of Risk Management Supervision, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The policy objective of the proposed rule is to ensure appropriate review of transactions that would result in control over FDIC-supervised institutions by allowing the FDIC to disapprove of a proposed acquisition if the proposed transaction would fail to satisfy any of

the statutory factors enumerated in the CBCA.¹ Under the FDIC's current regulations, an entity is exempt from a notification requirement when the FRB reviews a notice under the CBCA. However, recent developments in equity markets may be contributing to elevated risk of excessive indirect control or concentration of ownership in FDIC-supervised institutions. Therefore, the FDIC is proposing to amend its regulations governing change in control notifications to remove the current exemption in order to ensure appropriate review of certain transactions, increasing the likelihood that all the statutory factors in the CBCA are met, and reducing the likelihood that certain transactions would result in an adverse effect on the Deposit Insurance Fund (DIF). The FDIC recognizes the importance of interagency collaboration and consistency with respect to the review of transactions under the CBCA and is committed to engaging in dialogue and coordination with the FRB and Office of the Comptroller of the Currency to develop an interagency approach to the issues discussed in this proposal.² The FDIC is also seeking public comment on all aspects of this proposal, including steps that may be taken on an interagency basis to coordinate CBCA notice review.

II. Background

A. The Change in Bank Control Act

The Change in Bank Control Act, section 7(j) of the Federal Deposit Insurance Act (FDI Act), generally provides that no person,³ acting directly or indirectly, or in concert with other persons, may acquire control of an insured depository institution (IDI) unless the person has provided the appropriate Federal banking agency (AFBA)⁴ prior written notice of the proposed transaction and the AFBA has

¹ 12 U.S.C. 1817(j)(7).

² The FDIC's commitment includes following standard notice and comment rulemaking practices should an interagency approach be developed and adopted.

³ 12 CFR 303.81(g) defines “person” as “an individual, corporation, limited liability company (LLC), partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, voting trust, or any other form of entity; and includes each party to a voting agreement and any group of persons acting in concert.”

⁴ 12 U.S.C. 1813(q).

not disapproved the transaction within 60 days, as may be extended.⁵ “Control” for purposes of the CBCA means “the power, directly or indirectly, to direct the management or policies of an insured depository institution or to vote 25 per centum or more of any class of voting securities of an insured depository institution.”⁶ The proposed acquisition may be completed upon receipt of written notice that the AFBA does not disapprove of the acquisition or if the AFBA fails to act on a substantially complete prior notice within the statutory time period.

An AFBA may disapprove a proposed acquisition if it is unable to satisfactorily resolve one or more of the statutory factors enumerated in the CBCA.⁷ An AFBA may disapprove of a proposed acquisition if the acquisition would result in a monopoly or may substantially lessen competition and the anticompetitive effects are not clearly outweighed by the public interest; the financial condition of any acquiring person or the future prospects of the institution is such as might jeopardize the financial stability of the institution or prejudice the interests of its depositors; the competence, experience, or integrity of any acquiring person or any proposed management would not be in the best interests of the depositors or the public; any acquiring person neglects, fails, or refuses to furnish the AFBA with all required information; or the AFBA determines that the proposed transaction would result in an adverse effect on the DIF.

B. FDIC Rules and Regulation—Part 303

Subpart E of 12 CFR part 303 of the FDIC Rules and Regulations (subpart E)⁸ implements the CBCA and sets forth the FDIC’s filing requirements and processing procedures for notices filed pursuant to the CBCA (notices).⁹ Subpart E requires notice to the FDIC before any person, acting directly or indirectly, alone or in concert with others, acquires control of a “covered institution,” unless the acquisition is exempt. The FDIC is the AFBA for insured State nonmember banks and

insured State savings associations.¹⁰ Because the CBCA applies to direct or indirect acquisitions of control, for purposes of the CBCA, the FDIC also may review a notice for an acquisition of control of any company that directly or indirectly controls an insured State nonmember bank or an insured State savings association.¹¹ Subpart E therefore defines “covered institution” to include an insured State nonmember bank, an insured State savings association, and any company that controls, directly or indirectly, an insured State nonmember bank or an insured State savings association and exempts certain holding companies in situations for which the FDIC does not currently require a notice.¹²

While the CBCA does not describe what constitutes the power to direct the management or policies of a covered institution, the Federal banking agencies have determined that a shareholder who owns or controls a significant block of voting securities generally will have influence in a banking organization. Thus, the FDIC’s regulations contain a rebuttable presumption that an acquisition of voting securities of a covered institution constitutes control and triggers the notice requirement if, immediately after the transaction, the acquiring person will own, control, or hold the power to vote 10 percent or more of any class of voting securities, and either the institution has registered securities under section 12 of the Securities Exchange Act of 1934, or no other person will own, control, or hold a greater percentage of that class of voting securities after the transaction.¹³ An acquiring person may rebut this presumption of control in writing.¹⁴

In practice, for transactions above the regulatory threshold of 10 percent of voting securities but below the 25 percent statutory threshold for control, an acquiring person generally will file a notice with the FDIC or rebut the presumption of control. To rebut the

presumption of control, the acquiring person generally will set forth factors that demonstrate that it will not have the power, directly or indirectly, to direct the management or policies of the covered institution. These factors may include, for example, commitments by the acquiring person not to seek representation on the board of directors of the covered institution, not to take certain actions to influence the policies of the institution, or not to acquire further voting securities above a certain threshold. The documents describing the actions the acquiring person will or will not take to rebut the presumption of control may be called “certifications,” “passivity agreements,” or “passivity commitments” (passivity commitments). The FDIC generally is a party to such passivity commitments, and these agreements by their terms constitute a “written agreement” entered into with a Federal banking agency and enforceable under sections 8 and 50 of the FDI Act.¹⁵ It has long been the policy of the FDIC that any passivity commitments executed in connection with an acquisition of voting securities must be tailored to the facts and circumstances of each situation.¹⁶

The FDIC has entered into passivity commitments in limited cases with asset managers investing in publicly traded FDIC-supervised institutions. The FDIC currently has in force four passivity commitments with three asset management companies. These commitments are published on the FDIC’s website.¹⁷

Certain transactions are exempt from the notice requirements of subpart E pursuant to § 303.84(a). Among the exempt transactions are the acquisition of voting securities of a depository institution holding company for which the FRB reviews a notice.¹⁸ Subpart E currently codifies the FDIC’s policy that it does not require a notice when the FRB actually reviews a notice to acquire voting securities of a depository institution holding company under the CBCA.¹⁹ However, the exemption does not extend to FRB determinations to accept a passivity commitment in lieu of a notice. In such cases, the FDIC evaluates the facts and circumstances to determine whether a notice is required to be filed with the FDIC for the indirect acquisition of control of an FDIC-supervised institution.²⁰

⁵ 12 U.S.C. 1817(j). The AFBA may, in its discretion, extend an additional 30 days the period during which such a disapproval may be issued. The period of disapproval may be extended two additional times for not more than 45 days each time in certain circumstances. See 12 U.S.C. 1817(j)(1)(A) through (D).

⁶ 12 U.S.C. 1817(j)(8)(B).

⁷ 12 U.S.C. 1817(j)(7).

⁸ 12 CFR 303.80 through 303.88.

⁹ The FDIC’s requirements and procedures are consistent with those of the other Federal banking agencies. See 12 CFR 5.50 (Office of the Comptroller of the Currency); 12 CFR 225.41 through 225.44 (FRB).

¹⁰ 12 U.S.C. 1813(q).

¹¹ Industrial loan companies, which in most cases are State nonmember banks, are not “banks” as defined in the Bank Holding Company Act so their parent companies are not required to become bank holding companies. 12 U.S.C. 1841(c)(2)(H).

¹² 12 CFR 303.81(e) (citing 12 CFR 303.84(a)(3) and (8)). Section 303.84(a)(3) exempts transactions described in sections 2(a)(5), 3(a)(A), or 3(a)(B) of the Bank Holding Company Act (12 U.S.C. 1841(a)(5), 1842(a)(A), and 1842(a)(B)) by a person described in those provisions because shares held in such capacities do not confer control upon such holding companies. Section 303.84(a)(8) exempts acquisitions of voting securities of a depository institution holding company for which the FRB reviews a notice pursuant to the CBCA.

¹³ 12 CFR 303.82(b)(1). See also 12 CFR 5.50(f)(2)(iii) (OCC); 12 CFR 225.41(c)(2) (FRB).

¹⁴ 12 CFR 303.82(b)(4).

¹⁵ 12 U.S.C. 1818 and 1831aa.

¹⁶ 80 FR 65889, 65894 (Oct. 28, 2015).

¹⁷ <https://www.fdic.gov/regulations/applications/resources/change-in-control.html>.

¹⁸ 12 CFR 303.84(a)(8).

¹⁹ 80 FR 65897.

²⁰ *Id.*

In recent years, however, the FDIC typically has not determined that notices must be filed with the FDIC when the FRB accepts a passivity commitment in lieu of a notice. For the reasons described below, developments involving institutional investors and FDIC-supervised institutions have prompted the FDIC to reconsider its procedures regarding transactions exempt from notice requirements pursuant to subpart E, the facts and circumstances under which it will require a notice, and how to monitor compliance with passivity commitments entered into to rebut the presumption of control.

C. Growth in Passive Investments and Implications

Passive investment vehicles such as index mutual funds and exchange-traded funds (ETFs) that aim to replicate the performance of a third-party index such as the S&P 500 Index (collectively, “index funds”) have grown in popularity in recent decades. Index funds do not hand-pick stocks like actively managed funds do in order to provide a return greater than the market; rather, index funds seek to match market returns by investing proportionally across stocks in the desired index or sector of the national economy. To the extent multiple index funds have the same company or related companies that sponsor, manage, or advise them, these companies are called “fund complexes.” By the end of December 2023, according to data released by Morningstar, passive funds exceeded active funds in total assets under management for the first time, with approximately \$13.3 trillion in total assets to active funds’ \$13.2 trillion.²¹ For comparison, when the first ETF was listed in 1993, passive funds represented less than 1 percent of total fund assets.²² Index funds have grown in popularity due to lower management fees relative to active funds, the belief that index funds match or outperform active funds more frequently and consistently, and the growth of target-date funds in retirement plans.²³ Investments in index funds

have pulled in more dollars on a net basis than active funds every year since 2013, and if fund flows continue to follow current trends, then they will further exceed total assets in active funds in the future.²⁴

The exponential growth of index funds necessarily implicates the statutory and regulatory schemes of the CBCA and other banking laws that are based on ownership thresholds and control of banking organizations.²⁵ As investments in index funds grow, asset management companies and other institutional investors engaging in similar strategies must continue to invest those funds in the universe of stocks that comprise the index, purchasing ever-greater shares of those

Investors Stayed the Course Despite Market Volatility in 2022/default.aspx.

²⁴ Sabban, *supra* note 19.

²⁵ For example, pursuant to section 22(h) of the Federal Reserve Act, 12 U.S.C. 375b, and Regulation O, 12 CFR part 215 (made applicable to insured nonmember banks by 12 U.S.C. 1828(j)(2)), extensions of credit by banks to “insiders,” such as principal shareholders, must comply with certain individual and aggregate lending limits and other requirements. Over the past several years, fund complexes have acquired, or have approached acquiring, more than 10 percent of a class of voting securities of banking organizations. Upon acquiring more than 10 percent of a class of voting securities of a banking firm, a fund complex would be considered a “principal shareholder” of the bank for purposes of Regulation O. Any company in which a principal shareholder fund complex owns more than 10 percent of a class of voting securities could, in some instances, be presumed to be a “related interest” of the fund complex. In that event, the fund complex, as a principal shareholder of the bank, and any related interests of the fund complex would be considered insiders of the bank under Regulation O. Accordingly, the bank’s lending to the principal shareholder fund complex and its controlled portfolio companies would be subject to the lending limits and other requirements of Regulation O. Certain banking firms expressed concerns about the possible unintended consequences of applying Regulation O to these relationships. In response, the Federal banking agencies issued a temporary no-action position in 2019 to provide time for the FRB, in consultation with the other Federal banking agencies, to consider whether to amend Regulation O to address concerns about unintended consequences of the application of Regulation O to companies that sponsor, manage, or advise investment funds and institutional accounts that invest in voting securities of banking organizations. FIL–85–2019 (Dec. 27, 2019), <https://www.fdic.gov/news/inactive-financial-institution-letters/2019/fil19085.html>. This interagency statement provided that the Federal banking agencies will exercise discretion to not take enforcement action against either a fund complex that is a principal shareholder of a bank, or a bank for which a fund complex is a principal shareholder, with respect to extensions of credit by the bank to the related interests of such fund complex that otherwise would violate Regulation O, provided the fund complexes and banks satisfy certain conditions that evidence that there is a lack of control by the fund complex over the bank. This statement was extended several times, most recently on December 15, 2023, until January 1, 2025. FIL–63–2023 (Dec. 15, 2023), <https://www.fdic.gov/news/financial-institution-letters/2023/fil23063.html>.

companies and increasing their ownership stakes. The FDIC has observed that fund complexes have acquired 10 percent or more of the voting securities at FDIC-supervised institutions or their controlling affiliates and have continued to increase their ownership percentages at more institutions. Additionally, the FDIC in recent years has observed a general pattern of more frequent requests for relief to rebut the presumptions of control under subpart E.

These developments have prompted the FDIC to reconsider its policies under the CBCA and implementing regulations so that the FDIC may more appropriately assess the effects of any control exerted over the management and policies of FDIC-supervised institutions. The FDIC is concerned that fund complexes will continue to increase their ownership percentage of FDIC-supervised institutions to potentially significant amounts as investments in their respective index funds grow. Fund complexes owning such high percentages of voting securities of FDIC-supervised institutions may create situations where the investor can have an outsized influence over the management or policies of an institution.²⁶ Such outsized influence may flow naturally from exercise of their votes as large shareholders over matters such as mergers, or through other indicia of control, such as engagements with portfolio companies whereby investors meet with directors or management to influence the direction of the company.²⁷ Fund complexes may seek board representation or management interlocks depending on the nature of existing passivity commitments.

Additionally, there have been changes to proxy access²⁸ and discretionary broker voting²⁹ that have given fund complexes more potential for control over the companies in which they hold a large equity stake in voting securities. The potential for fund complexes to exercise significant influence or control over management, business strategies, or

²⁶ See John Coates, *The Problem of Twelve: When a Few Financial Institutions Control Everything*, 27–28 (2023).

²⁷ See *id.* at 47–48 (describing trends of asset managers increasing the number of engagements held with portfolio companies and the companies’ responses).

²⁸ See Holly J. Gregory, et al., *The Latest on Proxy Access*, Harv. L. Sch. F. on Corp. Governance & Fin. Reg. (Feb. 1, 2019) (detailing the increase in proxy access at S&P 500 companies since 2015).

²⁹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, section 957, 124 Stat. 1376, 1906 (2010) (codified at 15 U.S.C. 78f(b)(10)) (prohibiting broker members from voting shares on executive compensation, boards of directors, and other “significant matter[s]”).

²¹ U.S. Fund Flows December 2023, Morningstar (Jan. 17, 2024), <https://research.morningstar.com/articles/1202332/us-fund-flows-december-2023> (login required). See also Adam Sabban, *It’s Official: Passive Funds Overtake Active Funds*, Morningstar (Jan. 17, 2024), <https://www.morningstar.com/funds/recovery-us-fund-flows-was-weak-2023>.

²² Sabban, *supra* note 19.

²³ Morningstar, *Target-Date Strategy Landscape: 2023 Report* (Mar. 28, 2023), <https://newsroom.morningstar.com/newsroom/news-archive/press-release-details/2023/Morningstars-Target-Date-Strategy-Landscape-Report-Finds->

major policy decisions at publicly traded FDIC-supervised institutions could increase the risk profile at such institutions and lead to excessive risk-taking to enhance profits, investor returns, or stock price. Finally, as fund complexes continue to purchase more shares of banking organizations across the market to match the growth of investments in index funds, there is the potential to create a concentration of ownership that may result in such investors having excessive influence or control over the banking industry as a whole.

In light of these changes to the economic landscape and ownership of FDIC-supervised institutions, the FDIC reviewed its policies under the CBCA and implementing regulations and believes it is appropriate to amend its current regulations to allow it to review certain transactions under the CBCA to address the concerns and potential risks outlined above. The FDIC also recognizes the interest in and need for collaboration among the Federal banking agencies on these issues to ensure consistency in the review of transactions implicating the CBCA. Accordingly, the FDIC is committed to engaging in dialogue and coordination with the FRB and the Office of the Comptroller of the Currency to develop an interagency approach to the issues discussed in this proposal and seeks public comment regarding further interagency coordination in this area.

III. Proposed Rule

A. Section 303.81(e)—Definitions

As noted above, the defined term “covered institution” excludes a holding company that is the subject of an exemption described in either § 303.84(a)(3) or (a)(8).³⁰ In accordance with the FDIC’s proposal to remove the exemption at § 303.84(a)(8), as described below, the FDIC proposes to remove the reference to holding companies and associated exemptions in the definition of “covered institution.” Therefore, as shown in the proposed regulatory text, the definition of “covered institution” would eliminate the reference to holding companies subject to the regulatory exemptions in § 303.84(a)(3) or (a)(8).

As described below, the FDIC proposes to remove the exemption at § 303.84(a)(8). The FDIC is not proposing to remove the exemption at § 303.84(a)(3), which refers to transactions that are statutorily exempt from the CBCA’s notice requirements. However, because the reference to

§ 303.84(a)(3) in the definition of “covered institution” refers to statutorily exempt transactions and not to holding companies themselves, the FDIC believes it is appropriate to remove this reference in the definition of covered institution as well. Some depository institution holding companies may be considered covered institutions.

B. Section 303.84(a)—Transactions That Do Not Require Notice

Section 303.84(a) currently contains eight transactions that are exempt from providing prior notice to the FDIC. The FDIC proposes to remove the exemption at § 303.84(a)(8), acquisitions of depository institution holding company voting securities for which the Board of Governors of the Federal Reserve System reviews a notice pursuant to the CBCA.

The current regulatory exemption only applies when the FRB actually reviews a notice under the CBCA, as described above.³¹ Under this proposal, investors that propose to acquire voting securities of a depository institution holding company in transactions for which the FRB reviews a notice would no longer automatically be exempt from providing the FDIC prior notice. A change in control at the holding company level conveys indirect control over the IDI for which the FDIC is the AFBA under the CBCA. The proposal to remove the exemption solely because a notice is being reviewed by the FRB would allow the FDIC to exercise its authority under the CBCA to require and approve or disapprove such a notice at the IDI level.

The FDIC has determined that the original purpose of the current exemption, which was to avoid duplicate regulatory review of the same transaction by both the FRB and the FDIC,³² is no longer warranted in light of the widespread impacts resulting from growth in, and changes to the nature of, passive investment strategies. As described above, fund complexes’ increasingly large ownership of voting securities of FDIC-supervised institutions or companies that control FDIC-supervised institutions, and the evolution of the economic landscape over the past few decades, present new risks. Accordingly, the FDIC has determined that this proposal is necessary in light of the risks created by possible outsized control over and concentration of ownership of FDIC-supervised institutions. The FDIC must have the ability to require a notice so

that, as the AFBA for the underlying IDI, it may independently review and determine whether the proposed acquisition satisfies the statutory factors enumerated in the CBCA for the institutions it supervises.³³ While an acquisition may be disapproved if one or more statutory factors in the CBCA are not met, as the Federal agency that also administers the DIF, the FDIC has a particular interest in reviewing whether a proposed acquisition could result in an adverse effect on the DIF.

While this proposal would allow the FDIC to require a notice to the FDIC when the FRB reviews a notice to acquire voting securities of a depository institution holding company, the FDIC would consider the facts and circumstances when deciding whether to exercise this authority for notices filed with the FRB. The FDIC believes it is appropriate to review proposed acquisitions under the CBCA more closely in order to fully address risks regarding outsized influence and increased concentration of ownership, though the FDIC may not do so for every proposed acquisition. Rather, the FDIC’s proposal would allow it to consider the full range of options provided for under the CBCA.

Under the FDIC’s current regulations, when the FRB accepts a passivity commitment in lieu of a notice, the FDIC evaluates the facts and circumstances of the case to determine whether a notice is required to be filed with the FDIC for the indirect acquisition of control of an FDIC-supervised institution. Similarly, in cases where the FRB accepts a notice, the FDIC under the proposed rule will evaluate the facts and circumstances to determine whether to require a notice to be filed with the FDIC as well.

The proposed rule would mean that for transactions resulting in the acquiring person owning, controlling, or holding with power to vote 10 percent or more of any class of voting securities of a depository institution holding company with an FDIC-supervised subsidiary institution, the FDIC may exercise one of the following options: (1) based on the facts and circumstances, require prior written notice to the FDIC under the CBCA for the indirect acquisition of control of an FDIC-supervised institution; or (2) allow the acquiring person an opportunity to

³³ 12 U.S.C. 1817(j)(7). The Office of the Comptroller of the Currency is the AFBA for national banks and the FRB is the AFBA for State member banks. Each agency would have a similar interest.

³⁰ 12 CFR 303.81(e).

³¹ *Supra*, note 18 and accompanying text.

³² *Id.*

rebut the presumption of control in writing.³⁴

IV. Expected Effects

As previously discussed, the proposed rule would remove an existing regulatory exemption that only applies when the FRB reviews a notice under the CBCA. As of the quarter ending March 31, 2024, the FDIC supervised 2,920 insured depository institutions.³⁵ This proposed rule, if promulgated, would likely increase the number of change-in-control notices submitted by entities seeking to acquire voting securities of FDIC-supervised institutions or their parent companies, and associated costs. Over the first three months of 2024, the FRB received 13 filings from 11 unique entities to indirectly acquire voting securities of FDIC-supervised institutions by acquiring voting securities of the entity that controls an FDIC-supervised institution.³⁶ The FDIC expects to receive 52 notices annually as a result of the proposed rule and one request to rebut the presumption of control annually.³⁷ The FDIC estimates that each notice would require 30.5 labor hours at an hourly cost of \$142.40³⁸ and that each request to rebut the presumption of control would require 15 labor hours at an hourly cost of \$111.40.³⁹ Therefore, the FDIC estimates that the proposed rule could result in average annual recordkeeping, reporting, and disclosure compliance costs of up to \$227,517.40.⁴⁰ However, the FDIC believes that this estimate likely is conservative because, as

previously stated, the FDIC may not exercise this authority for every notice filed with the FRB.

If adopted, the FDIC believes that the proposed rule would facilitate appropriate review of transactions resulting in control of FDIC-supervised institutions and, thereby, would reduce the likelihood of outsized influence or control over FDIC-supervised institutions and any associated costs. As previously discussed, recent developments in equity markets in concert with the FDIC's current practice of exempting entities from a notification requirement when the FRB reviews a notice under the CBCA may be contributing to elevated risk of excessive or indirect control or concentration of ownership of FDIC-supervised institutions. The proposed rule would facilitate the FDIC's review of certain transactions, thereby increasing the likelihood that all the statutory factors in the CBCA are met, and reducing the likelihood that certain transactions would result in an adverse effect on the DIF. The FDIC does not have the information necessary to quantify such effect.

V. Alternatives Considered

The primary alternative to this proposed rule that the FDIC considered was maintaining the existing regulatory structure in which an entity is exempt from submitting a notice to the FDIC when the FRB actually reviews a notice to acquire voting securities of a depository institution holding company. The FDIC believes that the proposed rule is more appropriate because recent developments in the equity markets, in concert with the FDIC's current policy of not requiring a notice, may be contributing to an elevated risk of excessive indirect control of FDIC-supervised institutions. The FDIC also considered the alternative of compelling an entity to file a notice with the FDIC in each case where the FRB actually reviews a notice to acquire voting securities of a depository institution holding company under the CBCA. However, the FDIC believes that the proposed rule is more appropriate because it would balance the costs associated with duplicate regulatory review of the same transaction with the elevated risks associated with excessive control or concentration of ownership of FDIC-supervised institutions.

VI. Request for Comments

The FDIC is seeking comment on all aspects of the proposed rule and

existing regulatory framework that applies to the role played by asset managers and other institutional investors with FDIC-supervised institutions in the context of the CBCA and passivity agreements. While the FDIC continues to perform a comprehensive review of its overall regulatory and supervisory approach to issues that arise under the CBCA, this proposed rule asks a number of questions and seeks public comment regarding monitoring of change in control-related issues, the use of passivity commitments, and specific terms and conditions that may be appropriate to incorporate into such commitments or non-objections in the future. In responding to the following questions, the FDIC asks that commenters please include quantitative as well as qualitative support for their responses, as applicable. The FDIC will consider comments submitted anonymously.

Question 1. Should the FDIC require prior written notice at the bank level when a change of control occurs at the holding company level? Why or why not?

Question 2. If the FDIC should require prior written notice when a change of control occurs at the holding company level, what steps should the FDIC take to avoid duplication of regulatory reviews and reduce regulatory burden? What would be the negative impacts of inconsistent approaches across the Federal banking agencies?

Question 3. Should the FDIC and other AFBAs consider an approach whereby a notice would be required at either the bank level or holding company based on specific criteria, such as the percentage of assets of the insured depository institution in relation to the consolidated assets of the holding company?

Question 4. Does the existing and proposed regulatory and supervisory framework properly consider all aspects of the role played by investors with FDIC-supervised institutions in the context of the CBCA? If not, what areas should be addressed?

Question 5. What, if any, additional requirements or criteria should be included in the existing regulatory framework to address the concerns of passive investors exerting control, direct and indirect, over FDIC-supervised institutions?

³⁴ Making passivity commitments is one option the FDIC will consider on whether the presumption of control has been rebutted.

³⁵ FDIC Call Report data, March 31, 2024.

³⁶ See 89 FR 471 (Jan. 4, 2024), 89 FR 1575 (Jan. 10, 2024), 89 FR 3403 (Jan. 18, 2024), 89 FR 5235 (Jan. 26, 2024), 89 FR 5544 (Jan. 29, 2024), 89 FR 8681 (Feb. 08, 2024), 89 FR 11276 (Feb. 14, 2024), and 89 FR 18410 (Mar. 13, 2024).

³⁷ Thirteen responses in the first three months of 2024 $\times$ (12/3) = 52 estimated change in control notices submitted annually.

³⁸ To derive this estimate, the FDIC used data from the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics for executives and managers, lawyers, compliance officers, financial analysts, and clerical categories in the depository credit intermediation sector as of May 2023. The FDIC increased these estimates by approximately 1.53 using the March 2023 BLS Employer Costs for Employee Compensation data, and then multiplied the resulting values by approximately 1.04 to reflect the change in the BLS Employment Cost Index between March 2023 and March 2024.

³⁹ *Id.*

⁴⁰ $52 \times 30.5 \times \$142.40 + 1 \times 15 \times \$111.40 = \$227,517.40$.

Question 6. What facts and circumstances should the FDIC consider when determining whether to require a notice to be filed with the FDIC for an indirect acquisition of control of an FDIC-supervised institution? What difference should there be in this determination, if any, when a notice is filed at the FRB versus when the FRB determines to accept a passivity commitment in lieu of a notice?

Question 7. Through what methods should the FDIC address the rebuttable presumption of control other than through passivity commitments? Should the FDIC continue entering into passivity agreements, or should it consider a different approach such as other passivity commitment arrangements, no-action letters, or agency opinions? Please identify the benefits and risks to any proposed method.

Question 8. What should the FDIC consider when determining whether a presumption of control has been successfully rebutted?

Question 9. What types of provisions should passivity commitments include and why?

Question 10. What, if any, provisions should be included in passivity commitments to ensure compliance with the written agreements?

Question 11. Should the FDIC enter into blanket passivity agreements with investors that apply to the entire portfolio of the FDIC-supervised institutions in the fund complex or require separate agreements for each FDIC-supervised institution? What should the FDIC consider when making this determination?

Question 12. Are institutional investors, fund complexes asset managers, or other large, passive shareholders directing the management or policies of FDIC-supervised institutions as a result of their voting securities holdings? If so, how? Are there other situations, investors, or risks that the FDIC should consider?

Question 13. Are investors coordinating voting or otherwise acting in concert in ways that the FDIC should be monitoring more closely? If so, please provide any available quantitative and qualitative data.

Question 14. Are there any other considerations for the FDIC in evaluating its current regulatory framework as it relates to the filing requirements and processing procedures for notices filed under the CBCA?

Question 15. Has concentrated ownership of FDIC-supervised institutions and their affiliates affected banking sector competition? If so, please

identify the impact and how it has impacted the sector.

Question 16. Has there been any impact on corporate governance, or other safety and soundness considerations, of concentrated ownership of FDIC-supervised institutions and their affiliates? If so, please identify the impact and how it has impacted these areas.

Question 17. Are there other areas of impact on FDIC-supervised institutions and their affiliates as a result of investors owning large proportions of voting securities of covered institutions that the FDIC should consider?

Question 18. Should the FDIC limit the voting power of persons who acquire 10 percent or more of a class of voting securities of an FDIC-supervised institution or its parent company? If so, how? What are the benefits and costs of various approaches?

Question 19. How can the FDIC and the other Federal banking agencies best ensure consistency in the review of notices under the CBCA? What steps should be taken on an interagency basis to ensure the appropriate review of transactions involving an indirect acquisition of control of an institution?

Question 20. Are there any expected effects of the proposed rule that have not been identified?

VII. Regulatory Analyses

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁴¹ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets of less than or equal to \$850 million.⁴²

⁴¹ 5 U.S.C. 601, *et seq.*

⁴² The SBA defines a small banking organization as having \$850 million or less in assets, where an organization’s “assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses an IDI’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the IDI is “small” for the purposes of RFA.

The proposed rule could impose costs since it would permit the FDIC to require certain entities that acquire control of FDIC-supervised institutions to file notices with the FDIC. Moreover, should these entities rebut the presumption of control, they would likely incur costs in order to do so. As of March 31, 2024, the FDIC supervises 2,920 institutions, of which 2,198 are small entities for the purposes of the RFA.⁴³ Over the first three months of 2024, 11 different investors indirectly acquired voting securities of 13 FDIC-supervised institutions, including eight that are small entities for the purposes of the RFA,⁴⁴ by acquiring voting securities of the companies that controlled those institutions.⁴⁵ The FDIC does not have data with which to determine if the acquirers were small entities for the purposes of the RFA.

The FDIC estimates this proposed rule would affect as many as 44 entities annually.⁴⁶ Acquirers of voting securities of FDIC-supervised institutions over the first three months of 2024 included individuals, family trusts, private equity firms, and construction companies.⁴⁷ Given the wide range of potential acquirers of voting securities of FDIC-supervised institutions, the FDIC believes it is unlikely that these 44 entities represent a substantial number of small entities. In light of the foregoing, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this proposed rule have any significant effects on small entities that the FDIC has not identified?

B. Paperwork Reduction Act

Certain provisions of the proposed rule contain “collections of information” within the meaning of the Paperwork Reduction Act (PRA) of 1995.⁴⁸ In accordance with the requirements of the PRA, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC’s OMB control

⁴³ FDIC Call Report data, March 31, 2024.

⁴⁴ *Id.*

⁴⁵ See *supra* note 33.

⁴⁶ $11 \times (12/3) = 44$.

⁴⁷ See *supra* note 33.

⁴⁸ 44 U.S.C. 3501–3521.

number associated with this proposed rule is 3064–0019 and is titled “Interagency Notice of Change in Control.”

As stated above, over the first three months of 2024, the FRB received 13 filings from 11 unique filers to indirectly acquire voting securities of an FDIC-supervised institution.⁴⁹ The FDIC estimates 43 annual respondents to the information collection (IC) in this ICR that corresponds to notices,⁵⁰ and 52

annual responses⁵¹ for an average of 1.21 responses per respondent annually.⁵² Subject matter experts (SMEs) at the FDIC recommend retaining the estimate of 30.5 labor hours per response for notices. Further, SMEs at the FDIC estimate that the FDIC will receive one request per year from an acquirer to rebut the presumption of control, and that an entity would spend, on average, 15 labor hours to prepare and submit such a request at an average

hourly cost of \$111.40.⁵³ The FDIC estimates that change in control applicants will incur labor costs at an hourly cost estimate of \$142.40.⁵⁴ Therefore, the FDIC estimates that the annual reporting burden hours associated with this NPR, if finalized, would be 1,601 as shown in table 1, and that the annual cost would be \$227,517.40.⁵⁵

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Applications for Change in Bank Control, 12 CFR 303.80 et seq. (Mandatory).	Reporting (On occa- sion).	43	1.21	30:30	1,586
2. Requests to rebut the presumption of control 12 CFR 303.82(b)(4) (Voluntary).	Reporting (On occa- sion).	1	1	15:00	15
Total Annual Burden (Hours): .....		.....	.....	.....	1,601

Source: FDIC.

Note: The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB’s consolidated information system.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the FDIC’s functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on the collection of information should be sent to the address listed in the **ADDRESSES** section of this document. Written comments and recommendations for this information collection also should be sent within 30 days of publication of this document 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.

C. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994⁵⁶ (RCDRIA), in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date

on which the regulations are published in final form.⁵⁷ The FDIC invites comments that will further inform its consideration of RCDRIA.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act⁵⁸ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the proposed rule in a simple and straightforward manner and invites comment on the use of plain language. For example:

- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?
- What else could the FDIC do to make the proposed rule easier to understand?

⁴⁹ See *supra* note 33.

⁵⁰ $11 \times (12/3) = 44$. SMEs at the FDIC estimate that one respondent per year would rebut the presumption of change in control rather than submit a change in control notice. Therefore, the estimated annual number of respondents to the first

information collection (IC) is 43 (44–1) and the estimated annual number of respondents to the second IC is 1.

⁵¹ $13 \times (12/3) = 52$.

⁵² $52/4335 = 1.21$.

⁵³ See *supra* note 35.

⁵⁴ *Id.*

⁵⁵ $1,586 \times \$142.40 + 15 \times \$111.40 = \$227,517.40$.

⁵⁶ 12 U.S.C. 4802(a).

⁵⁷ 12 U.S.C. 4802(b).

⁵⁸ Public Law 106–102, sec. 722, 113 Stat. 1338, 1471 (1999).

E. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023⁵⁹ requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002.⁶⁰

The FDIC is proposing to amend the current regulation by removing one exempt transaction from § 303.84(a) that currently does not require prior written notice to the FDIC. Transactions involving the acquisition of voting securities of a depository institution holding company for which the FRB reviews a notice would no longer be an exempt transaction under § 303.84(a). The proposed rule is intended for the FDIC to strengthen its review and approval process for acquisitions of voting securities that involve FDIC-supervised institutions. The proposal and required summary can be found at <https://www.fdic.gov/resources/regulations/federal-register-publications/>.

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Change in bank control, Filing procedures, Procedure and rules of practice, Reporting and recordkeeping requirements, and Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 303 as follows:

PART 303—FILING PROCEDURES

- 1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1463, 1467a, 1813, 1815, 1817, 1818, 1819(a) (Seventh and Tenth), 1820, 1823, 1828, 1831i, 1831e, 1831o, 1831p–1, 1831w, 1831z, 1835a, 1843(j), 3104, 3105, 3108, 3207, 5412; 15 U.S.C. 1601–1607.

- 2. Amend § 303.81 by revising paragraph (e) to read as follows:

§ 303.81 Definitions.

* * * * *

(e) *Covered institution* means an insured State nonmember bank, an insured State savings association, and any company that controls, directly or

indirectly, an insured State nonmember bank or an insured State savings association.

* * * * *

§ 303.84 [Amended]

- 3. Amend § 303.84 by removing paragraph (a)(8).

By order of the Board of Directors.

Dated at Washington, DC, on July 30, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–18187 Filed 8–16–24; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2026; Project Identifier AD–2024–00163–E]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Pratt & Whitney (PW) Model PW1519G, PW1521G, PW1521GA, PW1521G–3, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A engines with a certain high-pressure compressor (HPC) 7th-stage axial rotor installed. This proposed AD was prompted by an analysis of an event involving an International Aero Engines, LLC (IAE LLC) Model PW1127GA–JM engine, which experienced an HPC 7th-stage integrally bladed rotor (IBR–7) separation that resulted in an aborted takeoff. This proposed AD would require performing initial and repetitive angled ultrasonic inspections (AUSI) of certain HPC 7th-stage axial rotors for cracks and replacing the HPC 7th-stage axial rotors if necessary. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 3, 2024.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2026; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For PW material identified in this proposed AD, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (860) 565–0140; email: help24@prattwhitney.com; website: connect.prattwhitney.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7655; email: carol.nguyen@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2024–2026; Project Identifier AD–2024–00163–E” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may revise this proposal because of those comments.

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

⁵⁹ 5 U.S.C. 553(b)(4).

⁶⁰ 44 U.S.C. 3501 note.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

On December 24, 2022, an Airbus Model A320neo airplane powered by IAE LLC Model PW1127GA-JM engines, experienced a failure of the HPC IBR-7 that resulted in an engine shutdown and aborted take-off. Following this event, the manufacturer conducted a records review of production and field-returned parts and re-evaluated their engineering analysis methodology. The new analysis found that the failure of

the HPC IBR-7 was caused by a nickel powdered metal anomaly, similar in nature to an anomaly previously observed, and these parts are susceptible to failure much earlier than previously determined. As a result, the FAA issued multiple ADs requiring AUSIs for certain affected parts, however the overall mitigation plan included several actions that were not available when those ADs were published. Since that time, PW has developed the AUSI for the HPC 7th-stage axial rotors. This condition, if not addressed, could result in uncontained HPC 7th-stage axial rotor failure, release of high-energy debris, damage to the engine, damage to the airplane, and possible loss of the airplane.

FAA’s Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed the following material:

- PW Alert Service Bulletin (ASB) PW1000G-A-72-00-0157-00A-930A-D, Issue No: 002, dated May 22, 2024; and PW ASB PW1000G-A-72-00-0210-00A-930A-D, Issue No: 002, dated May 22, 2024; which specify procedures for performing initial AUSIs on affected HPC 7th-stage axial rotors. This material also includes the serial numbers of affected HPC 7th-stage axial rotors. This material is distinct because

it applies to different engine models in different configurations.

- PW ASB PW1000G-A-72-00-0158-00B-930A-D, Issue No: 002, dated August 1, 2024; and PW ASB PW1000G-A-72-00-0211-00A-930A-D, Issue No: 002, dated August 1, 2024; which specify procedures for performing repetitive AUSIs on affected HPC 7th-stage axial rotors. This material is distinct because it applies to different engine models in different configurations.

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

Proposed AD Requirements in This NPRM

This proposed AD would require performing initial and repetitive AUSIs of certain HPC 7th-stage axial rotors for cracks and replacement if necessary.

Interim Action

The FAA considers this AD to be an interim action. This unsafe condition is still under investigation by the manufacturer and, depending on the results of that investigation, the FAA may consider further rulemaking action.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 121 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AUSI of HPC 7th-stage axial rotor	20 work-hours × \$85 per hour = \$1,700	\$0	\$1,700	\$205,700

The FAA estimates the following costs to do any necessary replacements that would be required based on the

results of the proposed inspection. The agency has no way of determining the

number of engines that might need these replacements:

ON-CONDITION COSTS			
Action	Labor cost	Parts cost	Cost per product
Replacement of HPC 7th-stage axial rotor	1 work-hours × \$85 per hour = \$85	\$84,640	\$84,725

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII:

Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under

that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney: Docket No. FAA–2024–2026; Project Identifier AD–2024–00163–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 3, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney (PW) Model PW1519G, PW1521G, PW1521GA, PW1521G–3, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A engines with an installed high-pressure compressor (HPC) 7th-stage axial rotor having part number (P/N) 30G5307.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by an analysis of an event involving an International Aero Engines, LLC Model PW1127GA–JM engine, which experienced an HPC 7th-stage integrally bladed rotor separation that resulted in an aborted takeoff. The FAA is issuing this AD to prevent failure of the HPC 7th-stage axial rotor. The unsafe condition, if not addressed, could result in uncontained HPC 7th-stage axial rotor failure, release of high-energy debris, damage to the engine, damage to the airplane, and possible loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) At the next piece-part exposure after the effective date of this AD and thereafter at each piece-part exposure, except as required by paragraph (g)(2) and (4) of this AD, perform an angled ultrasonic inspection (AUSI) of the affected HPC 7th-stage axial rotor for cracks in accordance with paragraphs (g)(1)(i) and (ii) of this AD, as applicable.

(i) For Model PW1500G engines: Step 7 of the Accomplishment Instructions of PW Alert Service Bulletin (ASB) PW1000G–A–72–00–0210–00A–930A–D, Issue No: 002, dated May 22, 2024 (PW1000G–A–72–00–0210–00A–930A–D, Issue No: 002), or step 5.B of the Accomplishment Instructions of PW ASB PW1000G–A–72–00–0211–00A–930A–D, Issue No: 002, dated August 1, 2024.

(ii) For Model PW1900G engines: Step 7 of the Accomplishment Instructions of PW ASB PW1000G–A–72–00–0157–00A–930A–D, Issue No: 002, dated May 22, 2024 (PW1000G–A–72–00–0157–00A–930A–D, Issue No: 002), or step 5.B of the Accomplishment Instructions of PW ASB PW1000G–A–72–00–0158–00B–930A–D, Issue No: 002, dated August 1, 2024.

(2) For engines with an installed HPC 7th-stage axial rotor and a serial number listed in Table 1 of PW1000G–A–72–00–0210–00A–930A–D, Issue No: 002, or Table 1 of PW1000G–A–72–00–0157–00A–930A–D, Issue No: 002, that have not had an AUSI performed prior to the effective date of this AD, at the next HPC engine shop visit after the effective date of this AD, not to exceed 10,000 part cycles since new, or within 100 flight cycles (FCs) after the effective date of this AD, whichever occurs later, and thereafter at each piece-part exposure: perform an AUSI of the HPC 7th-stage axial rotor for cracks in accordance with paragraphs (g)(1)(i) and (ii) of this AD, as applicable.

(3) If any crack is found during any inspection required by paragraphs (g)(1) or (2) of this AD, before further flight, remove the HPC 7th-stage axial rotor from service and replace with a part eligible for installation.

(4) If an HPC 7th-stage axial rotor has accumulated 100 FCs or less since the last AUSI, reinspection is not required provided that the part was not damaged during removal from the engine.

(h) Definitions

For the purposes of this AD:

(1) “Model PW1500G” engines are PW Model PW1519G, PW1521G, PW1521GA, PW1521G–3, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 engines.

(2) “Model PW1900G” engines are PW Model PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A engines.

(3) A “part eligible for installation” is any of the following:

(i) An HPC 7th-stage axial rotor, P/N 30G5307, that has passed the AUSI required by paragraphs (g)(1) or (g)(2) of this AD.

(ii) An HPC 7th-stage axial rotor, P/N 30G5307, that has a Certificate of Conformance that shows compliance with NDIP–1281.

(iii) An HPC 7th-stage axial rotor that has a later approved P/N.

(4) A “piece-part exposure” is when the HPC 7th-stage axial rotor is disassembled from the rotor assembly.

(5) An “HPC engine shop visit” is when the HPC rotor assembly is removed from the HPC module.

(i) Credit for Previous Actions

This paragraph provides credit for the initial AUSI required by paragraphs (g)(1) and (2) of this AD, if those actions were done before the effective date of this AD using any of the following:

(1) PW ASB PW1000G–A–72–00–0157–00A–930A–D, Issue No: 001, dated February 15, 2024.

(2) PW ASB PW1000G–A–72–00–0158–00B–930A–D, Issue No: 001, dated February 19, 2024.

(3) PW ASB PW1000G–A–72–00–0210–00A–930A–D, Issue No: 001, dated February 15, 2024.

(4) PW ASB PW1000G–A–72–00–0211–00A–930A–D, Issue No: 001, dated February 19, 2024.

(j) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des

Moines, WA 98198; phone: (781) 238-7655; email: carol.nguyen@faa.gov.

(I) Material Incorporated by Reference

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

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

(i) Pratt & Whitney (PW) Alert Service Bulletin (ASB) PW1000G-A-72-00-0157-00A-930A-D, Issue No: 002, dated May 22, 2024.

(ii) PW ASB PW1000G-A-72-00-0158-00B-930A-D, Issue No: 002, dated August 1, 2024.

(iii) PW ASB PW1000G-A-72-00-0210-00A-930A-D, Issue No: 002, dated May 22, 2024.

(iv) PW ASB PW1000G-A-72-00-0211-00A-930A-D, Issue No: 002, dated August 1, 2024.

(3) For PW material identified in this AD, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (860) 565-0140; email: help24@prattwhitney.com; website: connect.prattwhitney.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued on August 12, 2024.

Peter A. White,

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

[FR Doc. 2024-18354 Filed 8-16-24; 8:45 am]

BILLING CODE 4910-13-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0199; FRL-12188-01-R9]

Air Quality Plans; Arizona; Maricopa County Air Quality Department; Source-Specific SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a source-specific revision to the Maricopa County Air Quality Department's (MCAQD or "Department") portion of the Arizona State Implementation Plan (SIP). This revision consists of certain permit

conditions related to emissions offsets generated from the replacement of existing diesel-fueled solid waste collection trucks promulgated by the MCAQD and submitted by the State of Arizona for inclusion in the Maricopa County portion of the Arizona SIP under the Clean Air Act (CAA or "Act"). The permit conditions have been submitted for SIP approval to ensure that they are federally enforceable, which is the basis for qualifying certain emissions reductions as creditable offsets under the CAA. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before September 18, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0199 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

Christa Cichoski, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; by phone: (415) 972-3930; or by email to cichoski.christa@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us," and "our" refer to the EPA.

Table of Contents

- I. The State's Submittal
 - A. What SIP revision did the State submit?
 - B. What is the purpose of the submitted source-specific SIP revision?
- II. The EPA's Evaluation and Action
 - A. What is the background for this proposal?
 - B. How is the EPA evaluating the source-specific SIP revision?
 - C. Does the source-specific SIP revision meet the evaluation criteria?
 - D. Proposed Action and Public Comment
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. The State's Submittal

A. What SIP revision did the State submit?

On August 3, 2022, the Arizona Department of Environmental Quality (ADEQ) submitted three source-specific SIP revisions on behalf of the MCAQD. The SIP revisions consist of portions of the following three operating permits: Facility ID F001645 was issued P0008308, Facility ID F001646 was issued P0008309, and Facility ID F000443 was issued P0008316. On February 3, 2023, the SIP submittal was deemed complete by operation of law. On April 3, 2024, via a letter dated March 29, 2024,¹ the ADEQ submitted corrected copies of these same permit conditions to correct minor typographical errors. The permits are now numbered: P0011602, P0011603, P0011601, respectively.

B. What is the purpose of the submitted source-specific SIP revision?

The submitted permit conditions ensure that emission reduction credits granted to Waste Management of Arizona, Inc. (Waste Management) for replacing existing diesel-fired solid waste collection trucks with compressed natural gas (CNG)-fired solid waste collection trucks meet the offset integrity criteria contained in 40 CFR part 51.165(a)(3)(ii)(C)(1)(i), which requires such emission reductions to be surplus, permanent, quantifiable, and federally enforceable. Approval of these portions of the permits into the Maricopa portion of the Arizona SIP will provide the necessary federal enforceability for these permit conditions.

¹ We note that the Maricopa County letter to ADEQ is dated April 1, 2024, which is after the March 29, 2024 date of the ADEQ letter. The MCAQD has clarified that their letter contained a typographical error and should have been dated March 29, 2024. See email dated June 20, 2024, from Kimberly Butler (MCAQD) to Laura Yannayon (EPA Region 9), which documents this clarification. A copy is provided in the docket for this action.

II. The EPA's Evaluation and Action

A. What is the background for this proposal?

Waste Management replaced 225 diesel-fueled solid waste collection trucks with 225 CNG-fueled solid waste collection trucks, which reduced annual emissions of NO_x from the four collection fleets based at three transfer stations within the Maricopa County ozone nonattainment area.

On July 8, 2021, Waste Management submitted an emission reduction credit (ERC) application to the Department to certify these emission reductions for use as offsets. The Department evaluated the submittal and determined the emission reductions qualified as surplus, quantifiable, and permanent. The Department further determined that the emission reductions would qualify as federally enforceable if the three transfer station air quality permits associated with the four collection fleets were submitted to the EPA as source-specific SIP revisions and approved into the applicable SIP.

In August 2021, the Department issued Waste Management permits P0008308, P0008309, and P0008316, which included permit conditions to ensure the emission reductions are surplus, permanent, quantifiable and enforceable.² The permits were revised to include a condition that the replaced diesel-fueled trucks be either permanently disabled or permanently removed from the nonattainment area and a condition that CNG trucks can only be replaced in the future with trucks that are certified to a NO_x emission limit equivalent to, or less than, that of current CNG trucks. In addition, the permits were revised to include monitoring and recordkeeping requirements to make the reductions enforceable.

After the Department revised these permits, the Department issued mobile ERC (MERC) Certificates to Waste Management for 33.6 tons/year of emission reduction credits. To ensure the federal enforceability of these emission reductions, the EPA directed the Department to submit the permit conditions related to the emission reduction credits for approval into the Maricopa portion of the Arizona SIP. The Maricopa County Board of Supervisors approved submittal of the Waste Management permit conditions as SIP revisions on July 27, 2022.

B. How is the EPA evaluating the source-specific SIP revision?

In analyzing this source-specific SIP submittal, we reviewed it for compliance with the substantive CAA requirements for SIPs in general as set forth in CAA section 110(a)(2), the permit requirements for nonattainment areas in CAA section 173, and the requirements for offsets in 40 CFR 51.165(a)(3)(ii)(C)(1)(i). We also evaluated the submittal and our action to ensure consistency with the requirements related to SIP revisions in CAA sections 110(l) and 193.

C. Does the source-specific SIP revision meet the evaluation criteria?

The EPA's implementing regulations regarding the requirements that emission reductions must meet to be used as offsets are found at 40 CFR 51.165(a)(3). Generally, offsets are creditable if they are permanent, surplus, quantifiable, and federally enforceable. We refer to this group of requirements as the "offset integrity criteria." We reviewed the permit conditions in all three permits pertaining to the emission reductions to ensure they met the offset integrity criteria. While the conditions in each permit are numbered differently, they all consist of the same nine conditions, with the only difference being the quantity of ERCs granted in each permit. For convenience, we cite the permit condition numbers of Maricopa County Air Quality Permit P0011602 below.

All of the offset integrity criteria, except for federal enforceability, can be evaluated based on a review of the permit terms and conditions. Federal enforceability is a status of those terms and conditions, determined by who has the authority to enforce the terms and conditions. While terms and conditions issued under SIP-approved New Source Review (NSR) permit programs normally provide federal enforceability, that is not the case for requirements applicable to mobile sources, which are not regulated under NSR. By including these permit conditions as source-specific SIP revisions, the EPA's approval, if finalized, will allow for federal enforceability of the permit terms and conditions. This section will discuss each offset integrity criterion in further detail.

1. Permanent

Emissions reductions used as offsets are required to be permanent, meaning the reductions continue for the life of the stationary source using the emission reductions as offsets. For MERCs, permanence is accomplished by

including provisions to require the removal or destruction of the existing higher-emitting vehicles (or their engines) and by preventing the subsequent replacement of the newer lower-emitting vehicles with higher-emitting vehicles. To ensure the permanency of these MERCs, the MCAQD included permit conditions to ensure that the diesel-fueled trucks that were replaced were removed from the nonattainment area. To ensure that the trucks do not operate in the nonattainment area, the MCAQD included a requirement that the location and usage of the replaced trucks be continuously monitored. In addition, the permit requires any future replacements of the new CNG-fueled solid waste collection trucks meet an emissions rate that is the same or lower than the CNG-fueled trucks.

2. Surplus

The permit specifies that the MERC quantity shall exclude emission reductions otherwise required by the CAA. This provision ensures that the emissions reductions that are quantified and credited are surplus to all other requirements of the CAA.

3. Quantifiable Emissions

The permit specifies the calculation methodology and emission factors that were used to quantify the emission reductions. The requirement to use the emission factors and methodology specified in the permit ensures that emission calculations are consistent, accurate, and quantifiable.

4. Federally Enforceable

Emissions reductions are enforceable if the emissions reductions are independently verifiable and enforceable as a practical matter. Each permit provides practical enforceability of the emissions reductions by imposing specific emission limits and monitoring and recordkeeping requirements. In order to be federally enforceable, the specific Waste Management permit conditions are being approved into the Maricopa County portion of the Arizona SIP as source-specific SIP revisions.

Additional information regarding our analysis is provided in the TSD included in the docket for this action.

D. Proposed Action and Public Comment

Pursuant to section 110(k)(3) of the Act, we are proposing approval of the source-specific SIP revisions submitted by ADEQ on behalf of the MCAQD. This proposed approval action is based on our determination that the submittal satisfies the applicable statutory and

² These permits were subsequently renumbered as permits P0011602, P0011603, P0011601, respectively, when corrected copies were submitted on April 3, 2024.

regulatory provisions governing regulation of offsets under CAA section 173 and 40 CFR 51.165(a)(3)(ii)(C)(1)(i), as explained above. As discussed in our TSD, we also found that the source-specific SIP revisions met the requirements of sections 110(l) and 193 of the Act. If we finalize this action as proposed, our action will be codified through revisions to 40 CFR 52.120 (Identification of Plan).

We will accept comments from the public on this proposal until September 18, 2024.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the three source-specific SIP revisions identified in Section I.A. of this preamble, submitted on April 3, 2024. These source-specific SIP revisions will incorporate specific provisions from permits issued by the MCAQD to ensure certain emission reductions are surplus, permanent, quantifiable, and federally enforceable. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and in hard copy at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis

and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 12, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2024–18386 Filed 8–16–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2023–0603; FRL–11596–01–R9]

Air Plan Revisions; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Maricopa County Air Quality Department (MCAQD or “County”) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOC) from storage, transfer, or loading of organic liquids and gasoline. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or “Act”). We are also proposing to approve the MCAQD’s reasonably available control technology (RACT) demonstration associated with these rules for the 2008 8-hour ozone national ambient air quality standards (NAAQS) in the Phoenix-Mesa ozone nonattainment area. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before September 18, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2023–0603 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting

comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 947–4137; email: wang.mae@epa.gov.

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

Table of Contents

I. The State’s Submittal

- A. What rules did the State submit?
- B. Are there other versions of these rules?
- C. What is the purpose of the submitted rule revisions?
- II. The EPA’s Evaluation and Action
 - A. How is the EPA evaluating the rules?
 - B. Do the rules meet the evaluation criteria?
 - C. The EPA’s Recommendations To Further Improve the Rules
 - D. Public Comment and Proposed Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. The State’s Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the MCAQD and submitted to the EPA by the Arizona Department of Environmental Quality (ADEQ or “State”).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Revised	Submitted
MCAQD	350	Storage and Transfer of Organic Liquids (Non-Gasoline) at an Organic Liquid Distribution (OLD) Facility.	11/18/2020	12/03/2020
MCAQD	351	Storage and Loading of Gasoline at Bulk Gasoline Plants and at Bulk Gasoline Terminals.	11/18/2020	12/03/2020

On June 3, 2021, the SIP submittal containing the documents listed in Table 1 was deemed complete by operation of law.

B. Are there other versions of these rules?

We conditionally approved earlier versions of Rule 350 and Rule 351 into the SIP on February 26, 2020 (85 FR 10986). In order to fulfill the commitment the MCAQD made as part of our prior conditional approval, the MCAQD adopted revisions to the SIP-approved versions on November 18, 2020, and ADEQ submitted them to the EPA on December 3, 2020. The February 26, 2020 conditional approval, and an explanation of how the SIP submittal proposed for approval here addresses the deficiencies identified in the conditional approval, are discussed in

more detail below. If we finalize this proposal to approve the November 18, 2020 versions of these rules, then these versions will replace the previously approved versions of these rules in the SIP.

C. What is the purpose of the submitted rule revisions?

Emissions of VOC contribute to the formation of ground-level ozone, which harms human health and the environment. Section 110(a) of the CAA requires States to submit plans that provide for implementation, maintenance, and enforcement of the NAAQS. In addition, CAA section 182(b)(2) requires that SIPs for ozone nonattainment areas classified as “Moderate” or higher implement RACT for sources covered by a control techniques guidelines (CTG) document.

The MCAQD regulates a portion of the Phoenix-Mesa area designated as nonattainment for ozone and classified as Moderate nonattainment for the 2008 ozone NAAQS.¹ Therefore, the MCAQD is required to submit SIP revisions that implement RACT-level controls for all sources covered by a CTG. The MCAQD submitted Rule 350 and Rule 351 to establish RACT-level controls for VOC emissions from sources covered by the petroleum liquid and gasoline storage and transfer CTGs. Rule 350 limits VOC emissions from organic liquid storage tanks and VOC emissions during transfer operations at organic liquid distribution facilities. Rule 351 limits VOC emissions from storage and loading of gasoline at bulk gasoline plants and bulk gasoline terminals. The associated CTGs are shown in Table 2.

TABLE 2—RULES AND ASSOCIATED CTGS

MCAQMD rule	Associated CTGs
Rule 350	Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks (EPA-450/2-77-036).
Rule 351	Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-047).
	Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks (EPA-450/2-77-036).
	Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-047).
	Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals (EPA-450/2-77-026).

¹ On November 12, 2019 (84 FR 60920), the EPA issued a determination that the Phoenix-Mesa ozone nonattainment area attained the 2008 ozone NAAQS by the Moderate area attainment date of

July 20, 2018. That determination did not constitute a redesignation of the area to attainment for the 2008 ozone standard. The designation status of the Phoenix-Mesa area will remain Moderate

nonattainment for the 2008 ozone NAAQS until such time as the EPA determines that the area meets Clean Air Act requirements for redesignation to attainment.

TABLE 2—RULES AND ASSOCIATED CTGS—Continued

MCAQMD rule	Associated CTGs
	Control of Volatile Organic Emissions from Bulk Gasoline Plants (EPA-450/2-77-035).

Section III.D of the preamble to the EPA's final rule to implement the 2008 8-hour ozone NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states in part that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that there are no sources in the nonattainment areas subject to a specific CTG. The County's RACT SIP provides MCAQD's analysis of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. On February 26, 2020, the EPA conditionally approved MCAQD Rule 350, Rule 351, and the County's RACT demonstration for the CTGs associated with these rules, into the Arizona SIP. The rules contained deficiencies that precluded full SIP approval and were conditionally approved based on a commitment by the MCAQD and the ADEQ to provide, within one year, a SIP submission that would address those deficiencies. The MCAQD subsequently revised these rules to address the identified deficiencies and the ADEQ submitted the revised rules on December 3, 2020. The EPA's technical support document (TSD) has more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)) and must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)). In addition, because this rule was submitted to satisfy the RACT requirement for sources covered by the CTGs listed in table 2, these rules must establish RACT level controls for such sources.

Guidance and policy documents that the EPA used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and

Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

4. "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks," EPA-450/2-77-036, December 1977.

5. "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA-450/2-78-047, December 1978.

6. "Control of Volatile Organic Emissions from Bulk Gasoline Plants," EPA-450/2-77-035, December 1977.

7. "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," EPA-450/2-77-026, October 1977.

B. Do the rules meet the evaluation criteria?

As summarized below, the EPA is proposing to conclude that these revised rules have corrected the deficiencies previously identified in the earlier versions of the rules that were conditionally approved into the SIP. Our February 26, 2020 conditional approval action found that these rules met all relevant CAA requirements except for the identified deficiencies. Because those deficiencies have been corrected, we are proposing to find that the revised rules are consistent with relevant requirements regarding enforceability, RACT, and SIP revisions. The submitted rules satisfy the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS for the Phoenix-Mesa ozone nonattainment area with regard to the CTGs listed in table 2 of this document. The TSD has more information on our evaluation, including descriptions of the individual deficiencies and the way that each was addressed in the current submitted version of the rules.

1. Deficiencies Previously Identified in MCAQD Rule 350

Section 103 of Rule 350 exempted fuel consumed or dispensed at the facility directly to users, hazardous waste, and wastewater and ballast water from organic liquid storage and transfer requirements. These exemptions were not previously in the SIP and were a potential CAA section 110(l) relaxation

as the County had not demonstrated the exemptions were necessary or that the exemptions would not interfere with attainment, reasonable further progress, or other requirements of the Act. The County corrected this deficiency by removing the exemptions.

Similarly, Rule 350 was missing an emissions limit that was previously in the SIP for organic liquid distribution facilities transferring over 600,000 gallons per month of organic liquid. The County addressed this potential CAA section 110(l) relaxation by adding the prior SIP limit to Rule 350, section 305.4.

Section 103.2(g)(2) of Rule 350 allowed the Control Officer to approve alternate procedures or requirements for opening vapor containment equipment while performing operations without clearly specifying what criteria the Control Officer would use to approve such alternate procedures. The County addressed this potentially inappropriate use of director's discretion by deleting the language referring to Control Officer approval.

Sections 301.1, 301.2, 301.3, and 301.4 of Rule 350 did not state a particular prohibition and the phrasing made the requirements unclear. The County restructured and rephrased the rule language to clarify the requirements for organic liquid storage tanks. The new language appears in Rule 350, section 303.

Section 103.2(e) of Rule 350 seemed to contain a limited exemption for floating roofs whenever the tank is being filled, instead of only during filling after the tank has been emptied completely. The County revised the language so the exemption applies only when the tank is drained completely and subsequently refilled.

Section 302.1(b) of Rule 350 was not clear regarding which external floating roof tanks are exempt from the rule's requirements and seemed to provide tanks with shoe-mounted secondary seals a broad exemption from all the rule's requirements. The County corrected this deficiency by removing the exemption.

Section 302.2(c)(1) of Rule 350 did not clearly specify vapor control requirements for internal floating roof tanks. The County revised the language to provide compliance with 40 CFR part 60, subpart Kb as one compliance option.

Section 103.2(g)(1) of Rule 350 contained an overly broad provision that is inconsistent with the CTG for bulk plants and could result in an open hatch during an entire loading event, leading to VOC emissions release. The County revised the rule language to clarify that the conditions under which a hatch, vent valve, or vapor sealing device may be open during transfer are limited to those necessary to avoid unsafe operating conditions.

2. Deficiencies Previously Identified in MCAQD Rule 351

Section 103.5(e)(2) of Rule 351 allowed the Control Officer to approve alternate procedures or requirements for opening vapor containment equipment while performing operations without clearly specifying what criteria the Control Officer would use to approve such alternate procedures. The County addressed this potentially inappropriate use of director's discretion by deleting the language referring to Control Officer approval.

Sections 302.2, 302.3, and 304.4 of Rule 351 did not state a particular prohibition and the phrasing made the requirements unclear. The County restructured and rephrased the rule language to clarify the requirements for gasoline storage tanks. The new language appears in Rule 351, section 303.

Section 103.4(b) of Rule 351 seemed to contain a limited exemption for floating roofs whenever the tank is being filled, instead of only during filling after the tank has been emptied completely. The County revised the language so the exemption applies only when the tank is drained completely and subsequently refilled.

Section 303.1(b) of Rule 351 was not clear regarding which external floating roof tanks are exempt from the rule's requirements and seemed to provide tanks with shoe-mounted secondary seals a broad exemption from all the rule's requirements. The County corrected this deficiency by removing the exemption.

Section 103.5(e)(1) of Rule 351 contained an overly broad provision that is inconsistent with the CTG for bulk plants and could result in an open hatch during an entire loading event, leading to VOC emissions release. The County revised the rule language to clarify that the conditions under which a hatch, vent valve, or vapor sealing device may be open during transfer are limited to those necessary to avoid unsafe operating conditions.

The "vapor loss control system" included as a compliance option in Rule 351, section 303.4, was not as stringent

as the vapor collection/processing system (VCPS) control option included in the SIP-approved rule. The County added the term "vapor collection/processing system" back into Rule 351 and included an emission reduction efficiency requirement as stringent as the requirement in the previous SIP-approved rule in the term's definition and in section 304.3.

Rule 351 lacked an emissions limit or vapor recovery efficiency requirement that had been demonstrated to meet RACT stringency requirements for gasoline bulk plant transfers. The County added a requirement in Rule 351, section 304.2 to require an emission limit of 0.6 lbs VOC/1000 gallons or a vapor recovery efficiency of at least 90%, comparable to other current local rules.

Section 103.1 of Rule 351 exempted the loading of aviation gasoline at airports from the rule's gasoline transfer requirements. The County had not demonstrated the exemption was necessary or that the exemption would not interfere with reasonable further progress, or other requirements of the Act. The County corrected this deficiency by removing the exemption.

C. The EPA's Recommendations To Further Improve the Rules

The TSD includes recommendations for the next time the MCAQD modifies these rules.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the submitted rules because they fulfill all relevant requirements. We are also proposing to approve the MCAQD's RACT demonstration for the 2008 8-hour ozone NAAQS with regard to the sources covered by the CTGs associated with these rules (as listed in table 2). This approval, if finalized, would mean that the State has fulfilled its commitment under the terms of the conditional approval to submit a revised approvable SIP submission, and the finalized approval would replace our February 26, 2020 conditional approval with respect to these rules and associated CTG RACT categories. If we finalize this approval, we would also remove the text associated with the conditional approval from 40 CFR 52.119(c)(1). We will accept comments from the public on this proposal until September 18, 2024. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference MCAQD Rule 350, "Storage and Transfer of Organic Liquids (Non-Gasoline) at an Organic Liquid Distribution (OLD) Facility," revised on November 18, 2020, which regulates VOC emissions from organic liquid storage and transfer operations at organic liquid distribution facilities. The EPA is also proposing to incorporate by reference MCAQD Rule 351, "Storage and Loading of Gasoline at Bulk Gasoline Plants and at Bulk Gasoline Terminals," revised on November 18, 2020, which regulates VOC emissions from gasoline storage and loading activities at bulk gasoline plants and terminals. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a State program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-

income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 13, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2024–18458 Filed 8–16–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2023–0301; FRL–10191–01–R3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Regional Haze State Implementation Plan for the Second Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or “the Agency”) is proposing to approve the regional haze State implementation plan (SIP) revision submitted by Delaware on August 8, 2022, and supplemented on March 7, 2024, as satisfying applicable requirements under the Clean Air Act (CAA) and EPA’s Regional Haze Rule (RHR) for the program’s second implementation period. Delaware’s SIP submission addresses the requirement that States must periodically revise their long-term strategies for making reasonable progress towards the national goal of preventing any future, and remedying any existing, anthropogenic impairment of visibility, including regional haze, in mandatory Class I Federal areas. The SIP submission also addresses other applicable requirements for the second implementation period of the regional haze program. EPA is taking this action pursuant to sections 110 and 169A of the CAA.

DATES: Written comments must be received on or before September 18, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2023–0301 at www.regulations.gov. For comments submitted at www.regulations.gov,

follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Adam Yarina, U.S. Environmental Protection Agency, Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2108. Mr. Yarina can also be reached via electronic mail at yarina.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What action is EPA proposing?
- II. Background and Requirements for Regional Haze Plans
 - A. Regional Haze Background
 - B. Roles of Agencies in Addressing Regional Haze
- III. Requirements for Regional Haze Plans for the Second Implementation Period
 - A. Identification of Class I Areas
 - B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress
 - C. Long-Term Strategy for Regional Haze
 - D. Reasonable Progress Goals
 - E. Monitoring Strategy and Other State Implementation Plan Requirements
 - F. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals
 - G. Requirements for State and Federal Land Manager Coordination
- IV. EPA’s Evaluation of Delaware’s Regional Haze Submission for the Second Implementation Period
 - A. Background on Delaware’s First Implementation Period SIP Submission

- B. Delaware's Second Implementation Period SIP Submission and EPA's Evaluation
- C. Identification of Class I Areas
- D. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress
- E. Long-Term Strategy for Regional Haze
 - a. Delaware's Response to the Six MANE-VU Asks
 - b. EPA's Evaluation of Delaware's Response to the Six MANE-VU Asks and Compliance With 40 CFR 51.308(f)(2)(i)
 - c. Additional Long-Term Strategy Requirements
- F. Reasonable Progress Goals
- G. Monitoring Strategy and Other Implementation Plan Requirements
- H. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals
- I. Requirements for State and Federal Land Manager Coordination
- V. Proposed Action
- VI. Incorporation by Reference
- VII. Statutory and Executive Order Reviews

I. What action is EPA proposing?

On August 8, 2022, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to address regional haze for the second implementation period; with a supplement submitted on March 7, 2024. DNREC made this SIP submission to satisfy the requirements of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 CFR 51.308. EPA is proposing to find that the Delaware regional haze SIP submission for the second implementation period meets the applicable statutory and regulatory requirements and thus proposes to approve Delaware's submission into its SIP.

II. Background and Requirements for Regional Haze Plans

A. Regional Haze Background

In the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation's mandatory Class I Federal areas, which include certain national parks and wilderness areas.¹ CAA 169A. The CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." CAA 169A(a)(1). The CAA further directs

EPA to promulgate regulations to assure reasonable progress toward meeting this national goal. CAA 169A(a)(4). On December 2, 1980, EPA promulgated regulations to address visibility impairment in mandatory Class I Federal areas (hereinafter referred to as "Class I Areas") that is "reasonably attributable" to a single source or small group of sources. (45 FR 80084, December 2, 1980). These regulations, codified at 40 Code of Federal Regulations (CFR) 51.300 through 51.307, represented the first phase of EPA's efforts to address visibility impairment. In 1990, Congress added section 169B to the CAA to further address visibility impairment, specifically, impairment from regional haze. CAA 169B. EPA promulgated the RHR, codified at 40 CFR 51.308,² on July 1, 1999. (64 FR 35714, July 1, 1999). These regional haze regulations are a central component of EPA's comprehensive visibility protection program for Class I Areas.

Regional haze is visibility impairment that is produced by a multitude of anthropogenic sources and activities which are located across a broad geographic area and that emit pollutants that impair visibility. Visibility impairing pollutants include fine and coarse particulate matter (PM) (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (e.g., sulfur dioxide (SO₂), nitrogen oxides (NO_x), and, in some cases, volatile organic compounds (VOC) and ammonia (NH₃)). Fine particle precursors react in the atmosphere to form fine particulate matter (PM_{2.5}), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the perception of clarity and color, as well as visible distance.³

² In addition to the generally applicable regional haze provisions at 40 CFR 51.308, EPA also promulgated regulations specific to addressing regional haze visibility impairment in Class I Areas on the Colorado Plateau at 40 CFR 51.309. The latter regulations are applicable only for specific jurisdictions' regional haze plans submitted no later than December 17, 2007, and thus are not relevant here.

³ There are several ways to measure the amount of visibility impairment, i.e., haze. One such measurement is the deciview, which is the principal metric used by the RHR. Under many circumstances, a change in one deciview will be perceived by the human eye to be the same on both clear and hazy days. The deciview is unitless. It is proportional to the logarithm of the atmospheric extinction of light, which is the perceived dimming of light due to its being scattered and absorbed as it passes through the atmosphere. Atmospheric light extinction (b_{ext}) is a metric used to express visibility and is measured in inverse megameters (Mm⁻¹). The EPA's Guidance on Regional Haze State Implementation Plans for the Second Implementation Period ("2019 Guidance") offers

To address regional haze visibility impairment, the 1999 RHR established an iterative planning process that requires both States in which Class I Areas are located and States "the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility" in a Class I Area to periodically submit SIP revisions to address such impairment. CAA 169A(b)(2);⁴ see also 40 CFR 51.308(b), (f) (establishing submission dates for iterative regional haze SIP revisions); (64 FR 35714 at 35768, July 1, 1999). Under the CAA, each SIP submission must contain "a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal," CAA 169A(b)(2)(B); the initial round of SIP submissions also had to address the statutory requirement that certain older, larger sources of visibility impairing pollutants install and operate the best available retrofit technology (BART). CAA 169A(b)(2)(A); 40 CFR 51.308(d), (e). States' first regional haze SIPs were due by December 17, 2007, 40 CFR 51.308(b), with subsequent SIP submissions containing updated long-term strategies originally due July 31, 2018, and every ten years thereafter. (64 FR 35714 at 35768, July 1, 1999). EPA established in the 1999 RHR that all States either have Class I Areas within their borders or "contain sources whose emissions are reasonably anticipated to contribute to regional haze in a Class I Area"; therefore, all States must submit regional haze SIPs.⁵ *Id.* at 35721.

Much of the focus in the first implementation period of the regional haze program, which ran from 2007 through 2018, was on satisfying States' BART obligations. First implementation period SIPs were additionally required to contain long-term strategies for making reasonable progress toward the

the flexibility for the use of light extinction in certain cases. Light extinction can be simpler to use in calculations than deciviews since it is not a logarithmic function. See, e.g., 2019 Guidance at 16, 19, www.epa.gov/visibility/guidance-regional-haze-state-implementation-plans-second-implementation-period. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (August 20, 2019). The formula for the deciview is $10 \ln(b_{ext})/10 \text{ Mm}^{-1}$. 40 CFR 51.301.

⁴ The RHR expresses the statutory requirement for states to submit plans addressing out-of-state Class I Areas by providing that states must address visibility impairment "in each mandatory Class I Federal area located outside the State that may be affected by emissions from within the State." 40 CFR 51.308(d), (f).

⁵ In addition to each of the fifty states, the EPA also concluded that the Virgin Islands and District of Columbia must also submit regional haze SIPs because they either contain a Class I area or contain sources whose emissions are reasonably anticipated to contribute regional haze in a Class I area. See 40 CFR 51.300(b), (d)(3).

¹ Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. CAA 162(a). There are 156 mandatory Class I Areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

national visibility goal, of which BART is one component. The core required elements for the first implementation period SIPs (other than BART) are laid out in 40 CFR 51.308(d). Those provisions required that States containing Class I Areas establish reasonable progress goals (RPGs) that are measured in deciviews and reflect the anticipated visibility conditions at the end of the implementation period including from implementation of States' long-term strategies. The first planning period RPGs were required to provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. In establishing the RPGs for any Class I Area in a State, the State was required to consider four statutory factors: the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources. CAA 169A(g)(1); 40 CFR 51.308(d)(1).

States were also required to calculate baseline (using the five year period of 2000–2004) and natural visibility conditions (*i.e.*, visibility conditions without anthropogenic visibility impairment) for each Class I Area, and to calculate the linear rate of progress needed to attain natural visibility conditions, assuming a starting point of baseline visibility conditions in 2004 and ending with natural conditions in 2064. This linear interpolation is known as the uniform rate of progress (URP) and is used as a tracking metric to help States assess the amount of progress they are making towards the national visibility goal over time in each Class I Area.⁶ 40 CFR 51.308(d)(1)(i)(B), (d)(2). The 1999 RHR also provided that States' long-term strategies must include the "enforceable emissions limitations,

compliance schedules, and other measures as necessary to achieve the reasonable progress goals." 40 CFR 51.308(d)(3). In establishing their long-term strategies, States are required to consult with other States that also contribute to visibility impairment in a given Class I Area and include all measures necessary to obtain their shares of the emission reductions needed to meet the RPGs. 40 CFR 51.308(d)(3)(i) and (ii). Section 51.308(d) also contains seven additional factors States must consider in formulating their long-term strategies, 40 CFR 51.308(d)(3)(v), as well as provisions governing monitoring and other implementation plan requirements. 40 CFR 51.308(d)(4). Finally, the 1999 RHR required States to submit periodic progress reports—SIP revisions due every five years that contain information on States' implementation of their regional haze plans and an assessment of whether anything additional is needed to make reasonable progress, see 40 CFR 51.308(g), (h)—and to consult with the Federal Land Manager(s) ⁷ (FLMs) responsible for each Class I Area according to the requirements in CAA 169A(d) and 40 CFR 51.308(i).

On January 10, 2017, EPA promulgated revisions to the RHR, (82 FR 3078, January 10, 2017), that apply for the second and subsequent implementation periods. The 2017 rule made several changes to the requirements for regional haze SIPs to clarify States' obligations and streamline certain regional haze requirements. The revisions to the regional haze program for the second and subsequent implementation periods focused on the requirement that States' SIPs contain long-term strategies for making reasonable progress towards the national visibility goal. The reasonable progress requirements as revised in the 2017 rule (referred to here as the "2017 RHR Revisions") are codified at 40 CFR 51.308(f). Among other changes, the 2017 RHR Revisions adjusted the deadline for States to submit their second implementation period SIPs from July 31, 2018 to July 31, 2021, clarified the order of analysis and the relationship between RPGs and the long-term strategy, and focused on making visibility improvements on the days with the most *anthropogenic* visibility impairment, as opposed to the

days with the most visibility impairment overall. EPA also revised requirements of the visibility protection program related to periodic progress reports and FLM consultation. The specific requirements applicable to second implementation period regional haze SIP submissions are addressed in detail below.

EPA provided guidance to the States for their second implementation period SIP submissions in the preamble to the 2017 RHR Revisions as well as in subsequent, stand-alone guidance documents. In August 2019, the EPA issued "Guidance on Regional Haze State Implementation Plans for the Second Implementation Period" ("2019 Guidance").⁸ On July 8, 2021, EPA issued a memorandum containing "Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period" ("2021 Clarifications Memo").⁹ Additionally, EPA further clarified the recommended procedures for processing ambient visibility data and optionally adjusting the URP to account for international anthropogenic and prescribed fire impacts in two technical guidance documents: the December 2018 "Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program" ("2018 Visibility Tracking Guidance"),¹⁰ and the June 2020 "Recommendation for the Use of Patched and Substituted Data and Clarification of Data Completeness for Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program" and associated Technical Addendum ("2020 Data Completeness Memo").¹¹

⁶ Guidance on Regional Haze State Implementation Plans for the Second Implementation Period. www.epa.gov/visibility/guidance-regional-haze-state-implementation-plans-second-implementation-period. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (August 20, 2019).

⁹ Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period. www.epa.gov/system/files/documents/2021-07/clarifications-regarding-regional-haze-state-implementation-plans-for-the-second-implementation-period.pdf. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (July 8, 2021).

¹⁰ Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program. www.epa.gov/visibility/technical-guidance-tracking-visibility-progress-second-implementation-period-regional. The EPA Office of Air Quality Planning and Standards, Research Triangle Park. (December 20, 2018).

¹¹ Recommendation for the Use of Patched and Substituted Data and Clarification of Data Completeness for Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program. www.epa.gov/visibility/memo-and-technical-addendum-ambient-data-usage-and-completeness-regional-haze-program. The EPA

⁶ EPA established the URP framework in the 1999 RHR to provide "an equitable analytical approach" to assessing the rate of visibility improvement at Class I Areas across the country. The start point for the URP analysis is 2004 and the endpoint was calculated based on the amount of visibility improvement that was anticipated to result from implementation of existing CAA programs over the period from the mid-1990s to approximately 2005. Assuming this rate of progress would continue into the future, EPA determined that natural visibility conditions would be reached in 60 years, or 2064 (60 years from the baseline starting point of 2004). However, EPA did not establish 2064 as the year by which the national goal *must* be reached. 64 FR 35714 at 35731–32, July 1, 1999. That is, the URP and the 2064 date are not enforceable targets, but are rather tools that "allow for analytical comparisons between the rate of progress that would be achieved by the state's chosen set of control measures and the URP." (82 FR 3078 at 3084, January 10, 2017).

⁷ EPA's regulations define "Federal Land Manager" as "the Secretary of the department with authority over the Federal Class I area (or the Secretary's designee) or, with respect to Roosevelt-Campobello International Park, the Chairman of the Roosevelt-Campobello International Park Commission." 40 CFR 51.301.

As previously explained in the 2021 Clarifications Memo, EPA intends the second implementation period of the regional haze program to secure meaningful reductions in visibility impairing pollutants that build on the significant progress States have achieved to date. The Agency also recognizes that analyses regarding reasonable progress are State-specific and that, based on States' and sources' individual circumstances, what constitutes reasonable reductions in visibility impairing pollutants will vary from state-to-state. While there exist many opportunities for States to leverage both ongoing and upcoming emission reductions under other CAA programs, the Agency expects States to undertake rigorous reasonable progress analyses that identify further opportunities to advance the national visibility goal consistent with the statutory and regulatory requirements. See generally 2021 Clarifications Memo. This is consistent with Congress' determination that a visibility protection program is needed in addition to the CAA's National Ambient Air Quality Standards and Prevention of Significant Deterioration programs, as further emission reductions may be necessary to adequately protect visibility in Class I Areas throughout the country.¹²

B. Roles of Agencies in Addressing Regional Haze

Because the air pollutants and pollution affecting visibility in Class I Areas can be transported over long distances, successful implementation of the regional haze program requires long-term, regional coordination among multiple jurisdictions and agencies that have responsibility for Class I Areas and the emissions that impact visibility in those areas. In order to address regional haze, States need to develop strategies in coordination with one another, considering the effect of emissions from one jurisdiction on the air quality in another. Five regional planning organizations (RPOs),¹³ which include representation from State and Tribal

governments, EPA, and FLMs, were developed in the lead-up to the first implementation period to address regional haze. RPOs evaluate technical information to better understand how emissions from State and Tribal land impact Class I Areas across the country, pursue the development of regional strategies to reduce emissions of particulate matter and other pollutants leading to regional haze, and help States meet the consultation requirements of the RHR.

The Mid-Atlantic/Northeast Visibility Union (MANE-VU), one of the five RPOs described above, is a collaborative effort of State governments, Tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the Mid-Atlantic and Northeast corridor of the United States. Member States and Tribal governments (listed alphabetically) include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Penobscot Indian Nation, Rhode Island, St. Regis Mohawk Tribe, and Vermont. The Federal partner members of MANE-VU are EPA, U.S. National Parks Service (NPS), U.S. Fish and Wildlife Service (FWS), and U.S. Forest Service (USFS).

III. Requirements for Regional Haze Plans for the Second Implementation Period

Under the CAA and EPA's regulations, all 50 States, the District of Columbia, and the U.S. Virgin Islands are required to submit regional haze SIPs satisfying the applicable requirements for the second implementation period of the regional haze program by July 31, 2021. Each State's SIP must contain a long-term strategy for making reasonable progress toward meeting the national goal of remedying any existing and preventing any future anthropogenic visibility impairment in Class I Areas. CAA 169A(b)(2)(B). To this end, 40 CFR 51.308(f) lays out the process by which States determine what constitutes their long-term strategies, with the order of the requirements in 40 CFR 51.308(f)(1) through (3) generally mirroring the order of the steps in the reasonable progress analysis¹⁴ and paragraphs (f)(4) through (6) containing additional, related requirements. Broadly speaking, a State first must identify the Class I

Areas within the State and determine the Class I Areas outside the State in which visibility may be affected by emissions from the State. These are the Class I Areas that must be addressed in the State's long-term strategy. See 40 CFR 51.308(f), (f)(2). For each Class I Area within its borders, a State must then calculate the baseline, current, and natural visibility conditions for that area, as well as the visibility improvement made to date and the URP. See 40 CFR 51.308(f)(1). Each State having a Class I Area and/or emissions that may affect visibility in a Class I Area must then develop a long-term strategy that includes the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress in such areas. A reasonable progress determination is based on applying the four factors in CAA section 169A(g)(1) to sources of visibility-impairing pollutants that the State has selected to assess for controls for the second implementation period. See 40 CFR 51.308(f)(2). A State evaluates potential emission reduction measures for those selected sources and determines which are necessary to make reasonable progress. Those measures are then incorporated into the State's long-term strategy. After a State has developed its long-term strategy, it then establishes RPGs for each Class I Area within its borders by modeling the visibility impacts of all reasonable progress controls at the end of the second implementation period, *i.e.*, in 2028, as well as the impacts of other requirements of the CAA. The RPGs include reasonable progress controls not only for sources in the State in which the Class I Area is located, but also for sources in other States that contribute to visibility impairment in that area. The RPGs are then compared to the baseline visibility conditions and the URP to ensure that progress is being made towards the statutory goal of preventing any future and remedying any existing anthropogenic visibility impairment in Class I Areas. 40 CFR 51.308(f)(2) and (3).

In addition to satisfying the requirements at 40 CFR 51.308(f) related to reasonable progress, the regional haze SIP revisions for the second implementation period must address the requirements in 40 CFR 51.308(g)(1) through (5) pertaining to periodic reports describing progress towards the RPGs, 40 CFR 51.308(f)(5), as well as requirements for FLM consultation that apply to all visibility protection SIPs and SIP revisions. 40 CFR 51.308(i).

A State must submit its regional haze SIP and subsequent SIP revisions to

Office of Air Quality Planning and Standards, Research Triangle Park (June 3, 2020).

¹² See, e.g., H.R. Rep. No. 95-294 at 205 ("In determining how to best remedy the growing visibility problem in these areas of great scenic importance, the committee realizes that as a matter of equity, the national ambient air quality standards cannot be revised to adequately protect visibility in all areas of the country."), ("the mandatory class I increments of [the PSD program] do not adequately protect visibility in Class I Areas").

¹³ RPOs are sometimes also referred to as "multi-jurisdictional organizations," or MJOs. For the purposes of this rulemaking, the terms RPO and MJO are synonymous.

¹⁴ EPA explained in the 2017 RHR Revisions that we were adopting new regulatory language in 40 CFR 51.308(f) that, unlike the structure in 40 CFR 51.308(d), "tracked the actual planning sequence." (82 FR 3078 at 3091, January 10, 2017).

EPA according to the requirements applicable to all SIP revisions under the CAA and EPA's regulations. See CAA 169A(b)(2); CAA 110(a). Upon EPA approval, a SIP is enforceable by the Agency and the public under the CAA. If EPA finds that a State fails to make a required SIP revision, or if EPA finds that a State's SIP is incomplete or disapproves the SIP, the Agency must promulgate a Federal implementation plan (FIP) that satisfies the applicable requirements. CAA 110(c)(1).

A. Identification of Class I Areas

The first step in developing a regional haze SIP is for a State to determine which Class I Areas, in addition to those within its borders, "may be affected" by emissions from within the State. In the 1999 RHR, EPA determined that all States contribute to visibility impairment in at least one Class I Area, 64 FR 35714 at 35720–22 (July 1, 1999), and explained that the statute and regulations lay out an "extremely low triggering threshold" for determining "whether States should be required to engage in air quality planning and analysis as a prerequisite to determining the need for control of emissions from sources within their State." *Id.* at 35721.

A State must determine which Class I Areas must be addressed by its SIP by evaluating the total emissions of visibility impairing pollutants from all sources within the State. While the RHR does not require this evaluation to be conducted in any particular manner, EPA's 2019 Guidance provides recommendations for how such an assessment might be accomplished, including by, where appropriate, using the determinations previously made for the first implementation period. 2019 Guidance at 8–9. In addition, the determination of which Class I Areas may be affected by a State's emissions is subject to the requirement in 40 CFR 51.308(f)(2)(iii) to "document the technical basis, including modeling, monitoring, cost, engineering, and emissions information, on which the State is relying to determine the emission reduction measures that are necessary to make reasonable progress in each mandatory Class I Federal Area it affects."

B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress

As part of assessing whether a SIP submission for the second implementation period is providing for reasonable progress towards the national visibility goal, the RHR contains requirements in 40 CFR

51.308(f)(1) related to tracking visibility improvement over time. The requirements of this section apply only to States having Class I Areas within their borders; the required calculations must be made for each such Class I Area. EPA's 2018 Visibility Tracking Guidance¹⁵ provides recommendations to assist States in satisfying their obligations under 40 CFR 51.308(f)(1); specifically, in developing information on baseline, current, and natural visibility conditions, and in making optional adjustments to the URP to account for the impacts of international anthropogenic emissions and prescribed fires. See 82 FR 3078 at 3103–05 (January 10, 2017).

The RHR requires tracking of visibility conditions on two sets of days: the clearest and the most impaired days. Visibility conditions for both sets of days are expressed as the average deciview index for the relevant five-year period (the period representing baseline or current visibility conditions). The RHR provides that the relevant sets of days for visibility tracking purposes are the 20% clearest (the 20% of monitored days in a calendar year with the lowest values of the deciview index) and 20% most impaired days (the 20% of monitored days in a calendar year with the highest amounts of anthropogenic visibility impairment).¹⁶ 40 CFR 51.301. A State must calculate visibility conditions for both the 20% clearest and 20% most impaired days for the baseline period of 2000–2004 and the most recent five-year period for which visibility monitoring data are available (representing current visibility conditions). 40 CFR 51.308(f)(1)(i) and (iii). States must also calculate natural visibility conditions for the clearest and most impaired days,¹⁷ by estimating the conditions that would exist on those two sets of days absent anthropogenic

visibility impairment. 40 CFR 51.308(f)(1)(ii). Using all these data, States must then calculate, for each Class I Area, the amount of progress made since the baseline period (2000–2004) and how much improvement is left to achieve in order to reach natural visibility conditions.

Using the data for the set of most impaired days only, States must plot a line between visibility conditions in the baseline period and natural visibility conditions for each Class I Area to determine the URP—the amount of visibility improvement, measured in deciviews, that would need to be achieved during each implementation period in order to achieve natural visibility conditions by the end of 2064. The URP is used in later steps of the reasonable progress analysis for informational purposes and to provide a non-enforceable benchmark against which to assess a Class I Area's rate of visibility improvement.¹⁸ Additionally, in the 2017 RHR Revisions, EPA provided States the option of proposing to adjust the endpoint of the URP to account for impacts of anthropogenic sources outside the United States and/or impacts of certain types of wildland prescribed fires. These adjustments, which must be approved by EPA, are intended to avoid any perception that States should compensate for impacts from international anthropogenic sources and to give States the flexibility to determine that limiting the use of wildland-prescribed fire is not necessary for reasonable progress. See 82 FR 3078 at 3107, January 10, 2017, footnote 116.

EPA's 2018 Visibility Tracking Guidance can be used to help satisfy the 40 CFR 51.308(f)(1) requirements, including in developing information on baseline, current, and natural visibility conditions, and in making optional adjustments to the URP. In addition, the 2020 Data Completeness Memo provides recommendations on the data completeness language referenced in 40 CFR 51.308(f)(1)(i) and provides updated natural conditions estimates for each Class I Area.

C. Long-Term Strategy for Regional Haze

The core component of a regional haze SIP submission is a long-term strategy that addresses regional haze in each Class I Area within a State's

¹⁵ The 2018 Visibility Tracking Guidance references and relies on parts of the 2003 Tracking Guidance: "Guidance for Tracking Progress Under the Regional Haze Rule," which can be found at www.epa.gov/sites/default/files/2021-03/documents/tracking.pdf.

¹⁶ This rulemaking also refers to the 20% clearest and 20% most anthropogenically impaired days as the "clearest" and "most impaired" or "most anthropogenically impaired" days, respectively.

¹⁷ The RHR at 40 CFR 51.308(f)(1)(ii) contains an error related to the requirement for calculating two sets of natural conditions values. The rule says "most impaired days or the clearest days" where it should say "most impaired days and clearest days." This is an error that was intended to be corrected in the 2017 RHR Revisions but did not get corrected in the final rule language. This is supported by the preamble text at 82 FR 3078 at 3098: "In the final version of 40 CFR 51.308(f)(1)(ii), an occurrence of 'or' has been corrected to 'and' to indicate that natural visibility conditions for both the most impaired days and the clearest days must be based on available monitoring information."

¹⁸ Being on or below the URP is not a "safe harbor"; *i.e.*, achieving the URP does not mean that a Class I area is making "reasonable progress" and does not relieve a state from using the four statutory factors to determine what level of control is needed to achieve such progress. *See, e.g.*, 82 FR 3078 at 3093 (January 10, 2017).

borders and each Class I Area that may be affected by emissions from the State. The long-term strategy “must include the enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress, as determined pursuant to (f)(2)(i) through (iv).” 40 CFR 51.308(f)(2). The amount of progress that is “reasonable progress” is based on applying the four statutory factors in CAA section 169A(g)(1) in an evaluation of potential control options for sources of visibility impairing pollutants, which is referred to as a “four-factor” analysis. The outcome of that analysis is the emission reduction measures that a particular source or group of sources needs to implement in order to make reasonable progress towards the national visibility goal. See 40 CFR 51.308(f)(2)(i). Emission reduction measures that are necessary to make reasonable progress may be either new, additional control measures for a source, or they may be the existing emission reduction measures that a source is already implementing. See 2019 Guidance at 43; 2021 Clarifications Memo at 8–10. Such measures must be represented by “enforceable emissions limitations, compliance schedules, and other measures” (*i.e.*, any additional compliance tools) in a State’s long-term strategy in its SIP. 40 CFR 51.308(f)(2).

Section 51.308(f)(2)(i) provides the requirements for the four-factor analysis. The first step of this analysis entails selecting the sources to be evaluated for emission reduction measures; to this end, the RHR requires States to consider “major and minor stationary sources or groups of sources, mobile sources, and area sources” of visibility impairing pollutants for potential four-factor control analysis. 40 CFR 51.308(f)(2)(i). A threshold question at this step is which visibility impairing pollutants will be analyzed. As EPA previously explained, consistent with the first implementation period, EPA generally expects that each State will analyze at least SO₂ and NO_x in selecting sources and determining control measures. See 2019 Guidance at 12, 2021 Clarifications Memo at 4. A State that chooses not to consider at least these two pollutants should demonstrate why such consideration would be unreasonable. 2021 Clarifications Memo at 4.

While States have the option to analyze *all* sources, the 2019 Guidance explains that “an analysis of control measures is not required for every source in each implementation period,” and that “[s]electing a set of sources for analysis of control measures in each implementation period is . . .

consistent with the Regional Haze Rule, which sets up an iterative planning process and anticipates that a State may not need to analyze control measures for all its sources in a given SIP revision.” 2019 Guidance at 9. However, given that source selection is the basis of all subsequent control determinations, a reasonable source selection process “should be designed and conducted to ensure that source selection results in a set of pollutants and sources the evaluation of which has the potential to meaningfully reduce their contributions to visibility impairment.” 2021 Clarifications Memo at 3.

EPA explained in the 2021 Clarifications Memo that each State has an obligation to submit a long-term strategy that addresses the regional haze visibility impairment that results from emissions from within that State. Thus, source selection should focus on the in-State contribution to visibility impairment and be designed to capture a meaningful portion of the State’s total contribution to visibility impairment in Class I Areas. A State should not decline to select its largest in-State sources on the basis that there are even larger out-of-State contributors. 2021 Clarifications Memo at 4.¹⁹

Thus, while States have discretion to choose any source selection methodology that is reasonable, whatever choices they make should be reasonably explained. To this end, 40 CFR 51.308(f)(2)(i) requires that a State’s SIP submission include “a description of the criteria it used to determine which sources or groups of sources it evaluated.” The technical basis for source selection, which may include methods for quantifying potential visibility impacts such as emissions divided by distance metrics, trajectory analyses, residence time analyses, and/or photochemical modeling, must also be appropriately documented, as required by 40 CFR 51.308(f)(2)(iii).

Once a State has selected the set of sources, the next step is to determine the emissions reduction measures for those sources that are necessary to make reasonable progress for the second implementation period.²⁰ This is

¹⁹ Similarly, in responding to comments on the 2017 RHR Revisions EPA explained that “[a] state should not fail to address its many relatively low-impact sources merely because it only has such sources and another state has even more low-impact sources and/or some high impact sources.” Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule (81 FR 26942, May 4, 2016) at 26987–26988.

²⁰ The CAA provides that, “[i]n determining reasonable progress there shall be taken into consideration” the four statutory factors. CAA 169A(g)(1). However, in addition to four-factor

accomplished by considering the four factors—“the costs of compliance, the time necessary for compliance, and the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.” CAA 169A(g)(1). EPA has explained that the four-factor analysis is an assessment of potential emission reduction measures (*i.e.*, control options) for sources; “use of the terms ‘compliance’ and ‘subject to such requirements’ in section 169A(g)(1) strongly indicates that Congress intended the relevant determination to be the requirements with which sources would have to comply in order to satisfy the CAA’s reasonable progress mandate.” 82 FR 3078 at 3091 (January 10, 2017). Thus, for each source it has selected for four-factor analysis,²¹ a State must consider a “meaningful set” of technically feasible control options for reducing emissions of visibility impairing pollutants. *Id.* at 3088. The 2019 Guidance provides that “[a] state must reasonably pick and justify the measures that it will consider, recognizing that there is no statutory or regulatory requirement to consider all technically feasible measures or any particular measures. A range of technically feasible measures available to reduce emissions would be one way to justify a reasonable set.” 2019 Guidance at 29.

EPA’s 2021 Clarifications Memo provides further guidance on what constitutes a reasonable set of control options for consideration: “A reasonable four-factor analysis will consider the full range of potentially reasonable options for reducing emissions.” 2021

analyses for selected sources, groups of sources, or source categories, a state may also consider additional emission reduction measures for inclusion in its long-term strategy, *e.g.*, from other newly adopted, on-the-books, or on-the-way rules and measures for sources not selected for four-factor analysis for the second planning period.

²¹ “Each source” or “particular source” is used here as shorthand. While a source-specific analysis is one way of applying the four factors, neither the statute nor the RHR requires states to evaluate individual sources. Rather, states have “the flexibility to conduct four-factor analyses for specific sources, groups of sources or even entire source categories, depending on state policy preferences and the specific circumstances of each state.” 82 FR 3078 at 3088, January 10, 2017. However, not all approaches to grouping sources for four-factor analysis are necessarily reasonable; the reasonableness of grouping sources in any particular instance will depend on the circumstances and the manner in which grouping is conducted. If it is feasible to establish and enforce different requirements for sources or subgroups of sources, and if relevant factors can be quantified for those sources or subgroups, then States should make a separate reasonable progress determination for each source or subgroup. 2021 Clarifications Memo at 7–8.

Clarifications Memo at 7. In addition to add-on controls and other retrofits (*i.e.*, new emission reduction measures for sources), EPA explained that States should generally analyze efficiency improvements for sources' existing measures as control options in their four-factor analyses, as in many cases such improvements are reasonable given that they typically involve only additional operation and maintenance costs. Additionally, the 2021 Clarifications Memo provides that States that have assumed a higher emission rate than a source has achieved or could potentially achieve using its existing measures should also consider lower emission rates as potential control options. That is, a State should consider a source's recent actual and projected emission rates to determine if it could reasonably attain lower emission rates with its existing measures. If so, the State should analyze the lower emission rate as a control option for reducing emissions. 2021 Clarifications Memo at 7. EPA's recommendations to analyze potential efficiency improvements and achievable lower emission rates apply to both sources that have been selected for four-factor analysis and those that have forgone a four-factor analysis on the basis of existing "effective controls."

See 2021 Clarifications Memo at 5, 10.

After identifying a reasonable set of potential control options for the sources it has selected, a State then collects information on the four factors with regard to each option identified. EPA has also explained that, in addition to the four statutory factors, States have flexibility under the CAA and RHR to reasonably consider visibility benefits as an additional factor alongside the four statutory factors.²² The 2019 Guidance provides recommendations for the types of information that can be used to characterize the four factors (with or without visibility), as well as ways in which States might reasonably consider and balance that information to determine which of the potential control options is necessary to make reasonable progress. See 2019 Guidance at 30–36. The 2021 Clarifications Memo contains further guidance on how States can reasonably consider modeled visibility impacts or benefits in the context of a four-factor analysis. 2021 Clarifications Memo at 12–13, 14–15. Specifically, EPA explained that while visibility can reasonably be used when comparing and choosing between multiple

reasonable control options, it should not be used to summarily reject controls that are reasonable given the four statutory factors. 2021 Clarifications Memo at 13. Ultimately, while States have discretion to reasonably weigh the factors and to determine what level of control is needed, 40 CFR 51.308(f)(2)(i) provides that a State "must include in its implementation plan a description of . . . how the four factors were taken into consideration in selecting the measure for inclusion in its long-term strategy."

As explained above, 40 CFR 51.308(f)(2)(i) requires States to determine the emission reduction measures for sources that are necessary to make reasonable progress by considering the four factors. Pursuant to 40 CFR 51.308(f)(2), measures that are necessary to make reasonable progress towards the national visibility goal must be included in a State's long-term strategy and in its SIP.²³ If the outcome of a four-factor analysis is a new, additional emission reduction measure for a source, that new measure is necessary to make reasonable progress towards remedying existing anthropogenic visibility impairment and must be included in the SIP. If the outcome of a four-factor analysis is that no new measures are reasonable for a source, continued implementation of the source's existing measures is generally necessary to prevent future emission increases and thus to make reasonable progress towards the second part of the national visibility goal: preventing future anthropogenic visibility impairment. See CAA 169A(a)(1). That is, when the result of a four-factor analysis is that no new measures are necessary to make reasonable progress, the source's existing measures are generally necessary to make reasonable progress and must be included in the SIP. However, there may be circumstances in which a State can demonstrate that a source's existing measures are *not* necessary to make reasonable progress. Specifically, if a State can demonstrate that a source will continue to implement its existing measures and

will not increase its emission rate, it may not be necessary to have those measures in the long-term strategy in order to prevent future emission increases and future visibility impairment. EPA's 2021 Clarifications Memo provides further explanation and guidance on how States may demonstrate that a source's existing measures are not necessary to make reasonable progress. See 2021 Clarifications Memo at 8–10. If the State can make such a demonstration, it need not include a source's existing measures in the long-term strategy or its SIP.

As with source selection, the characterization of information on each of the factors is also subject to the documentation requirement in 40 CFR 51.308(f)(2)(iii). The reasonable progress analysis, including source selection, information gathering, characterization of the four statutory factors (and potentially visibility), balancing of the four factors, and selection of the emission reduction measures that represent reasonable progress, is a technically complex exercise, but also a flexible one that provides States with bounded discretion to design and implement approaches appropriate to their circumstances. Given this flexibility, 40 CFR 51.308(f)(2)(iii) plays an important function in requiring a State to document the technical basis for its decision making so that the public and EPA can comprehend and evaluate the information and analysis the State relied upon to determine what emission reduction measures must be in place to make reasonable progress. The technical documentation must include the modeling, monitoring, cost, engineering, and emissions information on which the State relied to determine the measures necessary to make reasonable progress. This documentation requirement can be met through the provision of and reliance on technical analyses developed through a regional planning process, so long as that process and its output has been approved by all State participants. In addition to the explicit regulatory requirement to document the technical basis of their reasonable progress determinations, States are also subject to the general principle that those determinations must be reasonably moored to the statute.²⁴ That is, a State's decisions about the emission

²³ States may choose to, but are not required to, include measures in their long-term strategies beyond just the emission reduction measures that are necessary for reasonable progress. See 2021 Clarifications Memo at 16. For example, states with smoke management programs may choose to submit their smoke management plans to EPA for inclusion in their SIPs but are not required to do so. See, *e.g.*, 82 FR 3078 at 3108–09, January 10, 2017 (requirement to consider smoke management practices and smoke management programs under 40 CFR 51.308(f)(2)(iv) does not require states to adopt such practices or programs into their SIPs, although they may elect to do so).

²⁴ See *Arizona ex rel. Darwin v. U.S. EPA*, 815 F.3d 519, 531 (9th Cir. 2016); *Nebraska v. U.S. EPA*, 812 F.3d 662, 668 (8th Cir. 2016); *North Dakota v. EPA*, 730 F.3d 750, 761 (8th Cir. 2013); *Oklahoma v. EPA*, 723 F.3d 1201, 1206, 1208–10 (10th Cir. 2013); cf. also *Nat'l Parks Conservation Ass'n v. EPA*, 803 F.3d 151, 165 (3d Cir. 2015); *Alaska Dep't of Envtl. Conservation v. EPA*, 540 U.S. 461, 485, 490 (2004).

²² See, *e.g.*, Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule (81 FR 26942, May 4, 2016), Docket Number EPA–HQ–OAR–2015–0531, U.S. Environmental Protection Agency at 186; 2019 Guidance at 36–37.

reduction measures that are necessary to make reasonable progress must be consistent with the statutory goal of remedying existing and preventing future visibility impairment.

The four statutory factors (and potentially visibility) are used to determine what emission reduction measures for selected sources must be included in a State's long-term strategy for making reasonable progress. Additionally, the RHR at 40 CFR 51.308(f)(2)(iv) separately provides five "additional factors"²⁵ that States must consider in developing their long-term strategies: (1) emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (2) measures to reduce the impacts of construction activities; (3) source retirement and replacement schedules; (4) basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and (5) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. The 2019 Guidance provides that a State may satisfy this requirement by considering these additional factors in the process of selecting sources for four-factor analysis, when performing that analysis, or both, and that not every one of the additional factors needs to be considered at the same stage of the process. See 2019 Guidance at 21. EPA provided further guidance on the five additional factors in the 2021 Clarifications Memo, explaining that a State should generally not reject cost-effective and otherwise reasonable controls merely because there have been emission reductions since the first planning period owing to other ongoing air pollution control programs or merely because visibility is otherwise projected to improve at Class I Areas. Additionally, States should not rely on these additional factors to summarily assert that the State has already made sufficient progress and, therefore, no sources need to be selected or no new controls are needed regardless of the outcome of four-factor analyses. 2021 Clarifications Memo at 13.

Because the air pollution that causes regional haze crosses State boundaries, 40 CFR 51.308(f)(2)(ii) requires a State to consult with other States that also have emissions that are reasonably

anticipated to contribute to visibility impairment in a given Class I Area. Consultation allows for each State that impacts visibility in an area to share whatever technical information, analyses, and control determinations may be necessary to develop coordinated emission management strategies. This coordination may be managed through inter- and intra-RPO consultation and the development of regional emissions strategies; additional consultations between States outside of RPO processes may also occur. If a State, pursuant to consultation, agrees that certain measures (e.g., a certain emission limitation) are necessary to make reasonable progress at a Class I Area, it must include those measures in its SIP. 40 CFR 51.308(f)(2)(ii)(A). Additionally, the RHR requires that States that contribute to visibility impairment at the same Class I Area consider the emission reduction measures the other contributing States have identified as being necessary to make reasonable progress for their own sources. 40 CFR 51.308(f)(2)(ii)(B). If a State has been asked to consider or adopt certain emission reduction measures, but ultimately determines those measures are not necessary to make reasonable progress, that State must document in its SIP the actions taken to resolve the disagreement. 40 CFR 51.308(f)(2)(ii)(C). EPA will consider the technical information and explanations presented by the submitting State and the State with which it disagrees when considering whether to approve the State's SIP. See *id.*; 2019 Guidance at 53. Under all circumstances, a State must document in its SIP submission all substantive consultations with other contributing States. 40 CFR 51.308(f)(2)(ii)(C).

D. Reasonable Progress Goals

Reasonable progress goals "measure the progress that is projected to be achieved by the control measures States have determined are necessary to make reasonable progress based on a four-factor analysis." 82 FR 3078 at 3091 (January 10, 2017). Their primary purpose is to assist the public and EPA in assessing the reasonableness of States' long-term strategies for making reasonable progress towards the national visibility goal. See 40 CFR 51.308(f)(3)(iii) and (iv). States in which Class I Areas are located must establish two RPGs, both in deciviews—one representing visibility conditions on the clearest days and one representing visibility on the most anthropogenically impaired days—for each area within their borders. 40 CFR 51.308(f)(3)(i). The two RPGs are intended to reflect the

projected impacts, on the two sets of days, of the emission reduction measures the State with the Class I Area, as well as all other contributing States, have included in their long-term strategies for the second implementation period.²⁶ The RPGs also account for the projected impacts of implementing other CAA requirements, including non-SIP based requirements. Because RPGs are the modeled result of the measures in States' long-term strategies (as well as other measures required under the CAA), they cannot be determined before States have conducted their four-factor analyses and determined the control measures that are necessary to make reasonable progress. See 2021 Clarifications Memo at 6.

For the second implementation period, the RPGs are set for 2028. Reasonable progress goals are not enforceable targets, 40 CFR 51.308(f)(3)(iii); rather, they "provide a way for the states to check the projected outcome of the [long-term strategy] against the goals for visibility improvement." 2019 Guidance at 46. While States are not legally obligated to achieve the visibility conditions described in their RPGs, 40 CFR 51.308(f)(3)(i) requires that "[t]he long-term strategy and the reasonable progress goals must provide for an improvement in visibility for the most impaired days since the baseline period and ensure no degradation in visibility for the clearest days since the baseline period." Thus, States are required to have emission reduction measures in their long-term strategies that are projected to achieve visibility conditions on the most impaired days that are better than the baseline period and show no degradation on the clearest days compared to the clearest days from the baseline period. The baseline period for the purpose of this comparison is the baseline visibility condition—the annual average visibility condition for the period 2000–2004. See 40 CFR 51.308(f)(1)(i), 82 FR 3078 at 3097–98 (January 10, 2017).

So that RPGs may also serve as a metric for assessing the amount of progress a State is making towards the

²⁶ RPGs are intended to reflect the projected impacts of the measures all contributing states include in their long-term strategies. However, due to the timing of analyses, control determinations by other states, and other on-going emissions changes, a particular state's RPGs may not reflect all control measures and emissions reductions that are expected to occur by the end of the implementation period. The 2019 Guidance provides recommendations for addressing the timing of RPG calculations when states are developing their long-term strategies on disparate schedules, as well as for adjusting RPGs using a post-modeling approach. 2019 Guidance at 47–48.

²⁵ The five "additional factors" for consideration in 40 CFR 51.308(f)(2)(iv) are distinct from the four factors listed in CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i) that states must consider and apply to sources in determining reasonable progress.

national visibility goal, the RHR requires States with Class I Areas to compare the 2028 RPG for the most impaired days to the corresponding point on the URP line (representing visibility conditions in 2028 if visibility were to improve at a linear rate from conditions in the baseline period of 2000–2004 to natural visibility conditions in 2064). If the most impaired days RPG in 2028 is above the URP (*i.e.*, if visibility conditions are improving more slowly than the rate described by the URP), each State that contributes to visibility impairment in the Class I Area must demonstrate, based on the four-factor analysis required under 40 CFR 51.308(f)(2)(i), that no additional emission reduction measures would be reasonable to include in its long-term strategy. 40 CFR 51.308(f)(3)(ii). To this end, 40 CFR 51.308(f)(3)(ii) requires that each State contributing to visibility impairment in a Class I Area that is projected to improve more slowly than the URP provide “a robust demonstration, including documenting the criteria used to determine which sources or groups [of] sources were evaluated and how the four factors required by paragraph (f)(2)(i) were taken into consideration in selecting the measures for inclusion in its long-term strategy.” The 2019 Guidance provides suggestions about how such a “robust demonstration” might be conducted. See 2019 Guidance at 50–51.

The 2017 RHR, 2019 Guidance, and 2021 Clarifications Memo also explain that projecting an RPG that is on or below the URP based on only on-the-books and/or on-the-way control measures (*i.e.*, control measures already required or anticipated before the four-factor analysis is conducted) is not a “safe harbor” from the CAA’s and RHR’s requirement that all States must conduct a four-factor analysis to determine what emission reduction measures constitute reasonable progress. The URP is a planning metric used to gauge the amount of progress made thus far and the amount left before reaching natural visibility conditions. However, the URP is not based on consideration of the four statutory factors and therefore cannot answer the question of whether the amount of progress being made in any particular implementation period is “reasonable progress.” See 82 FR 3078 at 3093, 3099–3100 (January 10, 2017); 2019 Guidance at 22; 2021 Clarifications Memo at 15–16.

E. Monitoring Strategy and Other State Implementation Plan Requirements

Section 51.308(f)(6) requires States to have certain strategies and elements in

place for assessing and reporting on visibility. Individual requirements under this section apply either to States with Class I Areas within their borders, States with no Class I Areas but that are reasonably anticipated to cause or contribute to visibility impairment in any Class I Area, or both. A State with Class I Areas within its borders must submit with its SIP revision a monitoring strategy for measuring, characterizing, and reporting regional haze visibility impairment that is representative of all Class I Areas within the State. SIP revisions for such States must also provide for the establishment of any additional monitoring sites or equipment needed to assess visibility conditions in Class I Areas, as well as reporting of all visibility monitoring data to EPA at least annually. Compliance with the monitoring strategy requirement may be met through a State’s participation in the Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring network, which is used to measure visibility impairment caused by air pollution at the 156 Class I Areas covered by the visibility program. 40 CFR 51.308(f)(6), (f)(6)(i) and (iv). The IMPROVE monitoring data is used to determine the 20% most anthropogenically impaired and 20% clearest sets of days every year at each Class I Area and tracks visibility impairment over time.

All States’ SIPs must provide for procedures by which monitoring data and other information are used to determine the contribution of emissions from within the State to regional haze visibility impairment in affected Class I Areas. 40 CFR 51.308(f)(6)(ii) and (iii). Section 51.308(f)(6)(v) further requires that all States’ SIPs provide for a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I Area; the inventory must include emissions for the most recent year for which data are available and estimates of future projected emissions. States must also include commitments to update their inventories periodically. The inventories themselves do not need to be included as elements in the SIP and are not subject to EPA review as part of the Agency’s evaluation of a SIP revision.²⁷ All States’ SIPs must also provide for any other elements, including reporting, recordkeeping, and other measures, that are necessary for States to assess and report on visibility.

²⁷ See “Step 8: Additional requirements for regional haze SIPs” in 2019 Regional Haze Guidance at 55.

40 CFR 51.308(f)(6)(vi). Per the 2019 Guidance, a State may note in its regional haze SIP that its compliance with the Air Emissions Reporting Rule (AERR) in 40 CFR part 51, subpart A satisfies the requirement to provide for an emissions inventory for the most recent year for which data are available. To satisfy the requirement to provide estimates of future projected emissions, a State may explain in its SIP how projected emissions were developed for use in establishing RPGs for its own and nearby Class I Areas.²⁸

Separate from the requirements related to monitoring for regional haze purposes under 40 CFR 51.308(f)(6), the RHR also contains a requirement at 40 CFR 51.308(f)(4) related to any additional monitoring that may be needed to address visibility impairment in Class I Areas from a single source or a small group of sources. This is called “reasonably attributable visibility impairment.”²⁹ Under this provision, if EPA or the FLM of an affected Class I Area has advised a State that additional monitoring is needed to assess reasonably attributable visibility impairment, the State must include in its SIP revision for the second implementation period an appropriate strategy for evaluating such impairment.

F. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals

Section 51.308(f)(5) requires a State’s regional haze SIP revision to address the requirements of paragraphs 40 CFR 51.308(g)(1) through (5) so that the plan revision due in 2021 will serve also as a progress report addressing the period since submission of the progress report for the first implementation period. The regional haze progress report requirement is designed to inform the public and EPA about a State’s implementation of its existing long-term strategy and whether such implementation is in fact resulting in the expected visibility improvement. See 81 FR 26942, 26950 (May 4, 2016), (82 FR 3078 at 3119, January 10, 2017). To this end, every State’s SIP revision for the second implementation period is required to describe the status of implementation of all measures included in the State’s long-term strategy, including BART and reasonable progress emission reduction measures from the first implementation

²⁸ *Id.*

²⁹ EPA’s visibility protection regulations define “reasonably attributable visibility impairment” as “visibility impairment that is caused by the emission of air pollutants from one, or a small number of sources.” 40 CFR 51.301.

period, and the resulting emissions reductions. 40 CFR 51.308(g)(1) and (2).

A core component of the progress report requirements is an assessment of changes in visibility conditions on the clearest and most impaired days. For second implementation period progress reports, 40 CFR 51.308(g)(3) requires States with Class I Areas within their borders to first determine current visibility conditions for each area on the most impaired and clearest days, 40 CFR 51.308(g)(3)(i), and then to calculate the difference between those current conditions and baseline (2000–2004) visibility conditions in order to assess progress made to date. See 40 CFR 51.308(g)(3)(ii). States must also assess the changes in visibility impairment for the most impaired and clearest days since they submitted their first implementation period progress reports. See 40 CFR 51.308(g)(3)(iii), (f)(5). Since different States submitted their first implementation period progress reports at different times, the starting point for this assessment will vary State by State.

Similarly, States must provide analyses tracking the change in emissions of pollutants contributing to visibility impairment from all sources and activities within the State over the period since they submitted their first implementation period progress reports. See 40 CFR 51.308(g)(4), (f)(5). Changes in emissions should be identified by the type of source or activity. Section 51.308(g)(5) also addresses changes in emissions since the period addressed by the previous progress report and requires States' SIP revisions to include an assessment of any significant changes in anthropogenic emissions within or outside the State. This assessment must include an explanation of whether these changes in emissions were anticipated and whether they have limited or impeded progress in reducing emissions and improving visibility relative to what the State projected based on its long-term strategy for the first implementation period.

G. Requirements for State and Federal Land Manager Coordination

Clean Air Act section 169A(d) requires that before a State holds a public hearing on a proposed regional haze SIP revision, it must consult with the appropriate FLM or FLMs; pursuant to that consultation, the State must include a summary of the FLMs' conclusions and recommendations in the notice to the public. Consistent with this statutory requirement, the RHR also requires that States "provide the [FLM] with an opportunity for consultation, in person and at a point early enough in

the State's policy analyses of its long-term strategy emission reduction obligation so that information and recommendations provided by the [FLM] can meaningfully inform the State's decisions on the long-term strategy." 40 CFR 51.308(i)(2). Consultation that occurs 120 days prior to any public hearing or public comment opportunity will be deemed "early enough," but the RHR provides that in any event the opportunity for consultation must be provided at least 60 days before a public hearing or comment opportunity. This consultation must include the opportunity for the FLMs to discuss their assessment of visibility impairment in any Class I Area and their recommendations on the development and implementation of strategies to address such impairment. 40 CFR 51.308(i)(2). In order for EPA to evaluate whether FLM consultation meeting the requirements of the RHR has occurred, the SIP submission should include documentation of the timing and content of such consultation. The SIP revision submitted to EPA must also describe how the State addressed any comments provided by the FLMs. 40 CFR 51.308(i)(3). Finally, a SIP revision must provide procedures for continuing consultation between the State and FLMs regarding the State's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I Areas. 40 CFR 51.308(i)(4).

IV. EPA's Evaluation of Delaware's Regional Haze Submission for the Second Implementation Period

A. Background on Delaware's First Implementation Period SIP Submission

DNREC submitted its regional haze SIP for the first implementation period to EPA on September 25, 2008. EPA approved Delaware's first implementation period regional haze SIP submission on July 19, 2011 (76 FR 42557). Delaware has no Class I Areas within its borders but was identified as influencing the visibility impairment of the Brigantine National Wildlife Refuge Class I Area ("Brigantine" or "Brigantine Wilderness Class I Area"), located in the State of New Jersey. EPA's approval included the portions of the plan that addressed the reasonable progress requirements and Delaware's implementation of Best Available Retrofit Technologies (BART) on eligible sources. The requirements for regional haze SIPs for the first implementation period are contained in 40 CFR

51.308(d) and (e). 40 CFR 51.308(b). Pursuant to 40 CFR 51.308(g), Delaware was also responsible for submitting a five-year progress report as a SIP revision for the first implementation period, which it did on September 24, 2013. EPA approved the progress report into the Delaware SIP on May 5, 2014. See 79 FR 25506.

B. Delaware's Second Implementation Period SIP Submission and EPA's Evaluation

In accordance with CAA sections 169A and the RHR at 40 CFR 51.308(f), on August 8, 2022, DNREC submitted a revision to the Delaware SIP, titled "Delaware's Visibility SIP Revision Final August 2022" to address its regional haze obligations for the second implementation period, which runs through 2028. DNREC subsequently submitted a supplemental SIP submittal to EPA on March 7, 2024, referred to as "Supplemental Submission for Delaware's Second Regional Haze SIP", which included title V permit provisions for three facilities owned by Calpine Mid-Atlantic Generation, LLC to be incorporated into the Delaware SIP. These permits and their associated public notice and transmittal letters are included in the rulemaking docket for this action.³⁰

The following sections describe Delaware's SIP submission, including analyses conducted by MANE-VU and Delaware's determinations based on those analyses, Delaware's assessment of progress made since the first implementation period in reducing emissions of visibility impairing pollutants, and the visibility improvement progress at the nearby Class I Area. This rulemaking also contains EPA's evaluation of Delaware's submission against the requirements of the CAA and RHR for the second implementation period of the regional haze program.

C. Identification of Class I Areas

Section 169A(b)(2) of the CAA requires each State in which any Class I Area is located or "the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility" in a Class I Area to have a plan for making reasonable progress toward the national visibility goal. The RHR implements this statutory requirement at 40 CFR 51.308(f), which provides that each State's plan "must address regional haze in each

³⁰ DNREC provided a clarification of this supplemental SIP submittal on May 28, 2024, that specified which provisions of the Title V permits it intended to be incorporated by reference into the Delaware SIP.

mandatory Class I Area located within the State and in each mandatory Class I Area located outside the State that may be affected by emissions from within the State,” and (f)(2), which requires each State’s plan to include a long-term strategy that addresses regional haze in such Class I Areas.

Delaware does not have a Class I Area located within its borders, but has been identified as influencing the visibility impairment of the Brigantine Wilderness Class I Area, located in the State of New Jersey. For the second implementation period, MANE-VU performed technical analyses³¹ to help assess source and State-level contributions to visibility impairment and the need for interstate consultation. MANE-VU used the results of these analyses to determine which States’ emissions “have a high likelihood of affecting visibility in MANE-VU’s Class I Areas.”³² Similar to metrics used in the first implementation period,³³ MANE-VU used a greater than 2 percent of sulfate plus nitrate emissions contribution criteria to determine whether emissions from individual jurisdictions within the region affected visibility in any Class I Areas. The MANE-VU analyses for the second implementation period used a combination of data analysis techniques, including emissions data, distance from Class I Areas, wind trajectories, and California Puff Model (CALPUFF) dispersion modeling. Although many of the analyses focused only on SO₂ emissions and resultant particulate sulfate contributions to visibility impairment, some also incorporated NO_x emissions to estimate particulate nitrate contributions.

One MANE-VU analysis used for contribution assessment was CALPUFF air dispersion modeling. The CALPUFF model was used to estimate sulfate and nitrate formation and transport in MANE-VU and nearby regions originating from large electric generating unit (EGU) point sources and other large industrial and institutional sources in the eastern and central United States. Information from an initial round of CALPUFF modeling was collated for the 444 EGUs that were determined to warrant further scrutiny based on their emissions of SO₂ and NO_x. The list of EGUs was based on an enhanced “Q/d”

analysis³⁴ that considered recent SO₂ emissions in the eastern United States and an analysis that adjusted previous 2002 MANE-VU CALPUFF modeling by applying a ratio of 2011 to 2002 SO₂ emissions. This list of sources was then enhanced by including the top five SO₂ and NO_x emission sources for 2011 for each State included in the modeling domain. A total of 311 EGU stacks (as opposed to individual units) were included in the CALPUFF modeling analysis. Initial information was also collected on the 50 industrial and institutional sources that, according to 2011 Q/d analysis, contributed the most to visibility impact in each Class I Area. The ultimate CALPUFF modeling run included a total of 311 EGU stacks and 82 industrial facilities. The summary report for the CALPUFF modeling included the top 10 most impacting EGUs and the top five most impacting industrial/institutional sources for each Class I Area and compiled those results into a ranked list of the most impacting EGUs and industrial sources at MANE-VU Class I Areas.³⁵

The second MANE-VU contribution analysis used a meteorologically weighted Q/d calculation to assess States’ contributions to visibility impairment at MANE-VU Class I Areas.³⁶ This analysis focused predominantly on SO₂ emissions and used cumulative SO₂ emissions from a source and a State for the variable “Q,” and the distance of the source or State to the IMPROVE monitor receptor at a Class I Area as “d.” The result is then multiplied by a constant (C_i), which is determined based on the prevailing wind patterns. MANE-VU selected a meteorologically weighted Q/d analysis as an inexpensive initial screening tool that could easily be repeated to determine which States, sectors, or sources have a larger relative impact and warrant further analysis. MANE-VU’s analysis estimated SO₂ emission contribution from Delaware sources of less than 2% of visibility impairment for all seven MANE-VU Class I Areas. Although MANE-VU did not originally estimate nitrate impacts, the MANE-VU Q/d analysis was subsequently extended to account for nitrate contributions from

NO_x emissions and to approximate the nitrate impacts from area and mobile sources. MANE-VU therefore developed a ratio of nitrate to sulfate impacts based on the previously described CALPUFF modeling and applied those to the sulfate Q/d results in order to derive nitrate contribution estimates. Several States did not have CALPUFF nitrate to sulfate ratio results, however, because there were no point sources modeled with CALPUFF.

To develop a final set of contribution estimates, MANE-VU weighted the results from both the Q/d and CALPUFF analyses. The MANE-VU mass-weighted sulfate and nitrate contribution results were reported for the MANE-VU Class I Areas (the Q/d summary report included results for several non-MANE-VU areas as well). If a State’s contribution to sulfate and nitrate concentrations at a particular Class I Area was 2 percent or greater, MANE-VU regarded that State as contributing to visibility impairment in that area. Delaware’s highest mass-weighted sulfate and nitrate contribution to any Class I Area was 0.6% to the Brigantine Wilderness Class I Area. Even with a contribution level below 2 percent threshold, Delaware agreed to participate in the consultation process, as part of the MANE-VU RPO.

As explained above, the EPA concluded in the 1999 RHR that “all [s]tates contain sources whose emissions are reasonably anticipated to contribute to regional haze in a Class I Area,” 64 FR 35714 at 35721 (July 1, 1999), and this determination was not changed in the 2017 RHR. Critically, the statute and regulation both require that the cause-or-contribute assessment consider all emissions of visibility-impairing pollutants from a State, as opposed to emissions of a particular pollutant or emissions from a certain set of sources. Consistent with these requirements, the 2019 Guidance makes it clear that “all types of anthropogenic sources are to be included in the determination” of whether a State’s emissions are reasonably anticipated to result in any visibility impairment. 2019 Guidance at 8.

First, as an aside, the screening analyses on which MANE-VU relied are useful for certain purposes. MANE-VU used information from its technical analysis to rank the largest contributing States to sulfate and nitrate impairment in five Class I Areas within MANE-VU States and three additional, nearby Class I Areas.³⁷ The rankings were used to

³⁴ “Q/d” is emissions (Q) in tons per year, typically of one or a combination of visibility-impairing pollutants, divided by distance to a class I area (d) in kilometers. The resulting ratio is commonly used as a metric to assess a source’s potential visibility impacts on a particular class I area.

³⁵ See tables 34 and 35 of appendix 8–5 of the DE 2022 Regional haze SIP submission, “2016 MANE-VU CALPUFF Modeling Report” in the docket.

³⁶ See appendix 8–2, “Contribution to Regional Haze in the Northeast and Mid-Atlantic United States: Preliminary Update Through 2007.”

³⁷ The Class I Areas analyzed were Acadia National Park in Maine, Brigantine Wilderness in New Jersey, Great Gulf Wilderness in New

³¹ The contribution assessment methodologies for MANE-VU Class I Areas are summarized in appendix 1–1 of the DE Regional Haze SIP submission, “Selection of States for MANE-VU Regional Haze Consultation (2018)” in the docket.

³² *Id.*

³³ See docket EPA–R03–OAR–2011–0289 for MANE-VU supporting materials.

determine upwind States that were deemed important to include in state-to-state consultation (based on an identified impact screening threshold). Additionally, large individual source impacts were used to target MANE-VU control analysis “Asks”³⁸ of States and sources both within and upwind of MANE-VU.³⁹ EPA finds the nature of the analyses generally appropriate to support decisions on States with which to consult. However, we have cautioned that source selection methodologies that target the largest regional contributors to visibility impairment across multiple States may not be reasonable for a particular State if it results in few or no sources being selected for subsequent analysis. 2021 Clarifications Memo at 3. Delaware has participated in the MANE-VU visibility analysis and has provided information in its SIP submission on the magnitude of visibility impacts from certain Delaware emission sources, specifically the Indian River Generating Station and the Edge Moor Energy Center (EMEC), on nearby Class I Areas.

With regard to the analysis and determinations regarding Delaware’s contribution to visibility impairment at out-of-state Class I Areas, the MANE-VU technical work focuses on the magnitude of visibility impacts from certain Delaware emissions on its Class I Area and other nearby Class I Areas. However, the analyses did not account for all emissions and all components of visibility impairment (e.g., primary PM emissions, and impairment from fine PM, elemental carbon, and organic carbon). In addition, Q/d analyses with a relatively simplistic accounting for wind trajectories and CALPUFF applied to a very limited set of EGUs, and major industrial sources of SO₂ and NO_x are not scientifically rigorous tools capable of evaluating contribution to visibility impairment from *all* emissions in a State. We again clarify that each State is obligated under the CAA and RHR to address regional haze visibility impairment resulting from emissions from within the State, irrespective of whether another State’s contribution is

greater. See 2021 Clarifications Memo at 3. Additionally, we note that the 2 percent or greater sulfate-plus-nitrate threshold used to determine whether Delaware’s emissions contribute to visibility impairment at a particular Class I Area may be higher than what EPA believes is an “extremely low triggering threshold” intended by the statute and regulations. In sum, based on the information provided, it is clear that emissions from Delaware contribute to visibility impairment at out-of-state Class I Areas. However, due to the low triggering threshold implied by the Rule and the lack of rigorous modeling analyses, we do not necessarily agree with the level of the State’s 2% contribution threshold.

Delaware determined that sources and emissions within the State contribute to visibility impairment at three out-of-state Class I Areas.⁴⁰ Furthermore, the State took part in the emission control strategy consultation process as a member of MANE-VU pursuant to the regulatory requirements. As part of that process, MANE-VU developed a set of emissions reduction measures identified as being necessary to make reasonable progress in the five MANE-VU Class I Areas. This strategy consists of six “Asks” for States within MANE-VU and five “Asks” for States outside the region that were found to impact visibility at Class I Areas within MANE-VU.⁴¹ Delaware’s submission discusses each of the “Asks” and explains why or why not each is applicable and how it has complied with the relevant components of the emissions control strategy MANE-VU has laid out for its States. Delaware worked with MANE-VU to determine potential reasonable measures that could be implemented by 2028, considering the cost of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts, and the remaining useful life of any potentially affected sources. As discussed in further detail below, the EPA is proposing to find that Delaware has submitted a regional haze plan that meets the requirements of 40 CFR 51.308(f)(2) related to the development of a long-term strategy. Although we have concerns regarding some aspects of MANE-VU’s technical analyses supporting States’ contribution

determinations, we propose to find that Delaware has nevertheless satisfied the applicable regulatory requirements for making reasonable progress towards natural visibility conditions in Class I Areas that may be affected by emissions from the State.

D. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress

Section 51.308(f)(1) requires States to determine the following for “each mandatory Class I Federal area located within the State”: baseline visibility conditions for the most impaired and clearest days, natural visibility conditions for the most impaired and clearest days, progress to date for the most impaired and clearest days, the differences between current visibility conditions and natural visibility conditions, and the URP. This section also provides the option for States to propose adjustments to the URP line for a Class I Area to account for visibility impacts from anthropogenic sources outside the United States and/or the impacts from wildland prescribed fires that were conducted for certain, specified objectives. 40 CFR 51.308(f)(1)(vi)(B).

Delaware does not have any Class I Area within its borders therefore, § 51.308(f)(1) and its requirements do not apply.⁴²

E. Long-Term Strategy for Regional Haze

a. Delaware’s Response to the Six MANE-VU Asks

Each State having a Class I Area within its borders or emissions that may affect visibility in a Class I Area must develop a long-term strategy for making reasonable progress towards the national visibility goal. CAA 169A(b)(2)(B). As explained in the Background section of this rulemaking, reasonable progress is achieved when all States contributing to visibility impairment in a Class I Area are implementing the measures determined—through application of the four statutory factors to sources of visibility impairing pollutants—to be necessary to make reasonable progress. 40 CFR 51.308(f)(2)(i). Each State’s long-term strategy must include the enforceable emission limitations,

Hampshire, Lye Brook Wilderness in Vermont, Moosehorn Wilderness in Maine, Shenandoah National Park in Virginia, James River Face Wilderness in Virginia, and Dolly Sods/Otter Creek Wildernesses in West Virginia.

³⁸ As explained more fully in section IV.E.a. of this document MANE-VU refers to each of the components of its overall strategy as an “Ask” of its member states.

³⁹ The MANE-VU consultation report (appendix D) explains that “[t]he objective of this technical work was to identify states and sources from which MANE-VU will pursue further analysis. This screening was intended to identify which states to invite to consultation, not a definitive list of which states are contributing.”

⁴⁰ Brigantine in NJ, James River Face in WV and Shenandoah National Park in VA.

⁴¹ See appendix 9–1 of the DE Regional Haze SIP submittal, “Statement of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Concerning a Course of Action within MANE-VU toward Assuring Reasonable Progress for the Second Regional Haze Implementation Period (2018–2028), (August 2017).”

⁴² While Delaware noted that it was not required to comply with 40 CFR 51.308(f)(1), elsewhere in its SIP submission (section 8.10), Delaware included a visibility metric graph of a nearby Class I area, which was taken from a MANE-VU report referenced in their SIP submittal, titled “Mid-Atlantic/Northeast U.S. Visibility Data 2004–2019 (2nd RH SIP Metrics) (May 1, 2020 revisions) (January 21, 2021 revision).”

compliance schedules, and other measures that are necessary to make reasonable progress. 40 CFR 51.308(f)(2). All new (*i.e.*, additional) measures that are the outcome of four-factor analyses are necessary to make reasonable progress and must be in the long-term strategy. If the outcome of a four-factor analysis and other measures necessary to make reasonable progress is that no new measures are reasonable for a source, that source's existing measures are necessary to make reasonable progress, unless the State can demonstrate that the source will continue to implement those measures and will not increase its emission rate. Existing measures that are necessary to make reasonable progress must also be in the long-term strategy. In developing its long-term strategies, a State must also consider the five additional factors in 40 CFR 51.308(f)(2)(iv). As part of its reasonable progress determinations, the State must describe the criteria used to determine which sources or group of sources were evaluated (*i.e.*, subjected to four-factor analysis) for the second implementation period and how the four factors were taken into consideration in selecting the emission reduction measures for inclusion in the long-term strategy. 40 CFR 51.308(f)(2)(iii).

The following section summarizes how Delaware's SIP submission addressed the requirements of 40 CFR 51.308(f)(2)(i). Specifically, it describes MANE-VU's development of the six Asks and how Delaware addressed each one.

States may rely on technical information developed by the RPOs of which they are members to select sources for four-factor analysis and to conduct that analysis, as well as to satisfy the documentation requirements under 40 CFR 51.308(f). Where an RPO has performed source selection and/or four-factor analyses (or considered the five additional factors in 40 CFR 51.308(f)(2)(iv)) for its member States, those States may rely on the RPO's analyses for the purpose of satisfying the requirements of 40 CFR 51.308(f)(2)(i) so long as the States have a reasonable basis to do so and all State participants in the RPO process have approved the technical analyses. 40 CFR 51.308(f)(3)(iii). States may also satisfy the requirement of 40 CFR 51.308(f)(2)(ii) to engage in interstate consultation with other States that have emissions that are reasonably anticipated to contribute to visibility impairment in a given Class I Area under the auspices of intra- and inter-RPO engagement.

Delaware is a member of the MANE-VU RPO and participated in the RPO's regional approach to developing a strategy for making reasonable progress towards the national visibility goal in the MANE-VU Class I Areas. MANE-VU's strategy includes a combination of: (1) measures for certain source sectors and groups of sectors that the RPO determined were reasonable for States to pursue, and (2) a request for member States to conduct four-factor analyses for individual sources that it identified as contributing to visibility impairment. MANE-VU refers to each of the components of its overall strategy as an Ask of its member States. On August 25, 2017, the Executive Director of MANE-VU, on behalf of the MANE-VU States and Tribal nations, signed a statement that identifies six emission reduction measures that comprise the "Asks" for the second implementation period.⁴³ The "Asks" were "designed to identify reasonable emission reduction strategies that must be addressed by the states and tribal nations of MANE-VU through their regional haze SIP updates."⁴⁴ The statement explains that "[i]f any State cannot agree with or complete a Class I State's Asks, the State must describe the actions taken to resolve the disagreement in the Regional Haze SIP."⁴⁵

MANE-VU's recommendations as to the appropriate control measures were based on technical analyses documented in the RPO's reports and included as appendices to or referenced in Delaware's regional haze SIP submission. One of the initial steps of MANE-VU's technical analysis was to determine which visibility-impairing pollutants should be the focus of its efforts for the second implementation period. In the first implementation period, MANE-VU determined that sulfates were the most significant visibility impairing pollutant at the region's Class I Areas. To determine the impact of certain pollutants on visibility at Class I Areas for the purpose of second implementation period planning, MANE-VU conducted an analysis comparing the pollutant contribution on the clearest and most impaired days in the baseline period (2000–2004) to the most recent period

(2012–2016)⁴⁶ at MANE-VU and nearby Class I Areas. MANE-VU found that while SO₂ emissions were decreasing and visibility was improving, sulfates still made up the most significant contribution to visibility impairment at MANE-VU and nearby Class I Areas. According to the analysis, NO_x emissions have begun to play a more significant role in visibility impacts in recent years, especially at the Brigantine Wilderness Class I Area. The technical analyses used by Delaware are included in their submission and are as follows:

- The Nature of the Fine Particle and Regional Haze Air Quality Problems in the MANE-VU Region: A Conceptual description (NESCAUM, November 2006, Revised August 2010 and July 2012) (Appendix 8–1)
- Contributions to Regional Haze in the Northeast and Mid-Atlantic United States: Preliminary Update Through 2007 (NESCAUM, March 2012) (Appendix 8–2)
- MANE-VU Updated Q/d*C Contribution Assessment. (MANE-VU, April 2016) (Appendix 8–3)
- 2016 Updates to the Assessment of Reasonable Progress in MANE-VU Class I Areas (MARAMA, January 2016) (Appendix 8–4)
- 2016 MANE-VU Source Contribution Modeling Report—CALPUFF Modeling of Large Electrical Generating Units and Industrial Sources (MANE-VU, April 2017) (Appendix 8–5)
- Regional Haze Metrics Trends and HYSPLIT Trajectory Analysis. (MANE-VU, May 2017) (Appendix 8–6)
- Permit Cancellation Documents for McKee Run Generating Station, City of Dover. (DNREC, November 2021) (Appendix 8–7)
- Recommendation on Approaches to Selecting the 20% Most Impaired Days. (MANE-VU, March 2017) (Appendix 8–8)
- Analysis of Speciation Trends Network Data Measured at the State of Delaware, Philip K. Hopke and Eugene Kim, Center for Air Resources Engineering and Science Clarkson University. (January 2005) (Appendix 8–9)

To support development of the "Asks," MANE-VU gathered information on each of the four statutory factors for six source sectors it determined, based on an examination of annual emission inventories, "had emissions that were reasonabl[y] anticipated to contribute to visibility

⁴³ See appendix 9–1 of the DE Regional Haze SIP submittal, "Statement of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Concerning a Course of Action within MANE-VU toward Assuring Reasonable Progress for the Second Regional Haze Implementation Period (2018–2028), (August 2017)."

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ The period of 2012–2016 was the most recent period for which data was available at the time of analysis.

degradation in MANE-VU:” electric generating units (EGUs), industrial/commercial/institutional boilers (ICI boilers), cement kilns, heating oil, residential wood combustion, and outdoor wood combustion.⁴⁷ MANE-VU also collected data on individual sources within the EGU, ICI boiler, and cement kiln sectors.⁴⁸ Information for the six sectors included explanations of technically feasible control options for SO₂ or NO_x, illustrative cost-effectiveness estimates for a range of model units and control options, sector-wide cost considerations, potential time frames for compliance with control options, potential energy and non-air-quality environmental impacts of certain control options, and how the remaining useful lives of sources might be considered in a control analysis.⁴⁹ Source-specific data included SO₂ emissions⁵⁰ and existing controls⁵¹ for certain existing EGUs, ICI boilers, and cement kilns. MANE-VU considered this information on the four factors as well as the analyses developed by the RPO’s Technical Support Committee when it determined specific emission reduction measures that were found to be reasonable for certain sources within two of the sectors it had examined—EGUs and ICI boilers. The “Asks” were based on this analysis and looked to either optimize the use of existing controls, have States conduct further analysis on EGU or ICI boilers with considerable visibility impacts, implement low sulfur fuel standards, or lock-in lower emission rates.

MANE-VU Ask 1 is “ensure the most effective use of control technologies on a year-round basis to consistently

minimize emissions of haze precursors or obtain equivalent alternative emission reductions” at EGUs with a nameplate capacity larger than or equal to 25 megawatts (MW) with already installed NO_x and/or SO₂ controls.⁵²

To address Ask 1, first, Delaware indicated that all the units that burn fuel oil are covered year-round by a Delaware low sulfur fuel regulation at Title 7 Delaware Administrative Code (7 DE Admin Code) 1108,⁵³ that was approved into the SIP on July 11, 2022 (87 FR 41074). Delaware’s SIP-approved low sulfur fuel regulation reduces the SIP-approved maximum allowable sulfur content limit for distillate fuels from 3,000 ppm to 15 ppm, for residual fuel from 1% to 0.5% by weight, and for any other fuel, the sulfur content would remain at 1.0% by weight. Based on that, the State asserted that it met the request to ensure SO₂ controls year-round under Ask 1.

Delaware then focused its efforts on the control of NO_x emissions and identified 10 EGUs with nameplate capacity larger than or equal to 25 MW, of which four had permits that did not require the use of NO_x controls year-round on some of their units. The four sources are Christiana Energy Center (ChEC), Edge Moor Energy Center (EMEC), Garrison Energy Center (GEC), and Hay Road Energy Center (HREC), which are all owned by Calpine Mid-Atlantic Generation, LLC (Calpine). To meet the Ask, Delaware requested the EGUs to perform four-factor analyses on the pertinent units to determine if year-round NO_x controls are feasible. Details of the EGUs’ four-factor analyses with regard to Ask 1 can be found in a technical support document (TSD) of this proposed rulemaking action; specifically, it describes how Delaware addressed each Ask.

Based on the four-factor analyses performed by the sources to evaluate adding or expanding NO_x controls year-round, only one of the sources, ChEC, concluded that it was feasible to operate the existing controls for an additional period throughout the year. Based upon that conclusion and in order to meet the Ask, Delaware updated applicable permits in May 2021 to reflect the new measures, and submitted the redacted permits for incorporation into the SIP. Additional details can be found in the TSD (section III–a.–1. at 8). Delaware therefore concluded that it met Ask 1.

MANE-VU Ask 2 requests that States “perform a four-factor analysis for

reasonable installation or upgrade to emissions controls” for specified sources. MANE-VU developed its Ask 2 list of sources for analysis by performing modeling and identifying facilities with the potential for 3.0 inverse megameters (Mm^{−1}) or greater impacts on visibility at any Class I Area in the MANE-VU region.⁵⁴ Delaware explained that it has no facilities that were modeled by MANE-VU to impact visibility at any Class I Area by 3.0 Mm^{−1} or more and concluded that it is currently meeting Ask 2. While Delaware did not select sources that fell under MANE-VU’s 3.0 Mm^{−1} threshold for four-factor analysis, it did provide supplemental information about a large source that was identified by commenters and explanation supporting its decision not to request the facility to evaluate measures for reasonable progress because the facility is effectively controlled.

Specifically, commenters asserted that Delaware should have selected the Delaware City Refinery Company, LLC (DCRC) for a four-factor analysis of possible controls. In its SIP submission, Delaware explained the reasons it did not conduct a four-factor analysis for DCRC. First, based on MANE-VU’s modeling results, DCRC showed that its impact on visibility impairment was low;⁵⁵ second, Delaware relied on the threshold that was agreed to by all MANE-VU States, including those that have Class I Areas within their boundaries; and third, the source is well controlled for SO₂ and NO_x through existing State regulations and several consent decrees. Section 8.13.2 of the SIP submission contains a detailed description of controls required for SO₂ and NO_x emissions, pursuant to two Federal consent decrees, an agreement governing the acquisition and operation of the facility, and State and Federal regulations that DCRC is subject to.⁵⁶ More details about Delaware’s response to Ask 2 can be found in the TSD of this proposed rulemaking action.

MANE-VU Ask 3 requests that “each MANE-VU State that has not yet fully adopted an ultra-low fuel oil standard as

⁴⁷ See MANE-VU’s “Four Factor Data Collection” Memo at 1, March 30, 2017, available at otcair.org/MANEVU/Upload/Publication/Reports/Four-Factor%20Data%20Collection%20Memo%20-%20170314.pdf. The six sectors were identified in the first implementation period pursuant to MANE-VU’s contribution assessment; MANE-VU subsequently updated its information on these sectors for the second implementation period.

⁴⁸ See appendix 8–4 “2016 Updates to the Assessment of Reasonable Progress for Regional Haze in MANE-VU Class I Areas, January 31, 2016.”

⁴⁹ *Id.*

⁵⁰ See docket document, “MANE-VU’s “Four Factor Data Collection Memo” March 30, 2017, table 1 contains 2011 SO₂ data from specific sources.

⁵¹ The “Status of the Top 167 EGUs that Contributed to Visibility Impairment at MANE-VU Class I Areas during the 2008 Regional Haze Planning Period” July 25, 2016, reviews the existing and soon to be installed, at the time of the report, emission controls at individual EGU sources that were a part of the MANE-VU Ask from the first implementation period. Available at: otcair.org/MANEVU/Upload/Publication/Reports/Status%20of%20the%20Top%20167%20Stacks%20from%20the%202008%20MANE-VU%20Ask.pdf.

⁵² See appendix 8–12 “MANE-VU Regional Haze Consultation Report.”

⁵³ 7 DE Admin Code 1108 “Sulfur Dioxide Emissions from Fuel Burning Equipment.” See 87 FR 41074, July 11, 2022.

⁵⁴ See appendix 8–12 “MANE-VU Regional Haze Consultation Report.”

⁵⁵ The Q/d for this facility, as calculated by MANE-VU, ranged from 0.36–3.25 for the eight Class I Areas in the MANE-VU analysis, with Brigantine Wilderness Area being at the top of this range; see docket documents, “Delaware Response to EPA Regional Haze Info Request 11–3–23” and “Attachment E—QDCPointOnly—Delaware1.xlsx”. In addition, this facility was not one of the 82 Industrial, Commercial, and Institutional sources identified by MANE-VU’s CALPUFF modeling as having emissions similar in magnitude to the EGUs modeled in this exercise or that are close enough to a Class I area that they would have the potential for visibility impacts.

⁵⁶ See the DE Regional Haze SIP submittal at 91.

requested by MANE-VU in 2007”, to “pursue this standard as expeditiously as possible and before 2028, depending on supply availability.” The Ask includes percent by weight standards for #2 distillate oil (0.0015% sulfur by weight or 15 parts per million (ppm)), #4 residual oil (0.25–0.5% sulfur by weight), and #6 residual oil (0.3–0.5% sulfur by weight). Delaware explained that, in 2013, it adopted the 7 DE Admin Code 1108 low-sulfur fuel regulation⁵⁷ which went into effect on July 1, 2016. Delaware therefore concluded that it is meeting Ask 3. Additional details about Delaware’s response to Ask 3 can be found in the TSD of this proposed rulemaking action at 24.

MANE-VU Ask 4 requests States to “pursue updating permits, enforceable agreements, and/or rules to “lock in” lower emissions rates for SO₂, NO_x and PM” at emission sources larger than 250 million British Thermal Units (MMBtu) per hour heat input that have switched to lower emitting fuels.⁵⁸ Based on Delaware’s SIP submission, two EGUs fell under Ask 4. The first source is Calpine’s EMEC, which had switched operations to lower emitting fuels and had its permits updated to lock in lower emission rates for SO₂, NO_x and PM. A second source, City of Dover McKee Run Generating Station, had its permits cancelled in November 2021.⁵⁹ Based on these updates, Delaware concluded it is meeting Ask 4. More details about Delaware’s response to Ask 4 are included in the TSD of this proposed rulemaking action.

MANE-VU Ask 5 requests that MANE-VU States “where emission rules have not been adopted, control NO_x emissions for peaking combustion turbines that have the potential to operate on high electric demand days (HEDD)” by either: (a) striving to meet NO_x emissions standards specified in the Ask for turbines that run on natural gas and fuel oil, (b) performing a four-factor analysis for reasonable installation of or upgrade to emission controls, or (c) obtaining equivalent alternative emission reductions on HEDD.⁶⁰ The Ask requests States to strive for NO_x emission standards of no greater than 25 ppm for natural gas and 42 ppm for fuel oil, or at a minimum, NO_x emissions standards of no greater than 42 ppm for natural gas and 96 ppm for fuel oil.

For Ask 5, Delaware identified seven sources with units affected by HEDD,⁶¹ and two of the seven sources met the emission limits provided in option (a). Delaware requested that each of the remaining five sources perform four-factor analyses as stated in option (b) of the Ask because their current Title V permits do not meet the NO_x standards from option (a).⁶² Based on the four-factor analyses conducted by the five sources to evaluate potential control options for HEDD units, three of them found it economically feasible to operate existing controls during two additional months adjacent to the ozone season, for which Delaware updated their Title V permits accordingly and submitted the permits for incorporation into the SIP. For the remaining two sources, Delaware reviewed the facilities’ estimates of compliance costs⁶³ of \$192,000/ton of NO_x removed for one and \$334,897/ton of NO_x removed for the other to upgrade their respective units,⁶⁴ and Delaware concluded that it was not an economically feasible option for these sources to upgrade their existing control given the limited operational time and low level of reported annual NO_x emissions within the State as shown on table 10–5 of the SIP submittal. In addition, Delaware evaluated various potential new control options for the five sources but found that these were neither economically nor technically feasible. Because Delaware conducted four-factor analyses on the selected sources, Delaware concluded it has satisfied Ask 5 through option (b). More details about Delaware’s EGUs four-factor analyses with regards to Ask 5 can be found in the TSD of this proposed rulemaking action.

MANE-VU Ask 6, requests that “each State should consider and report in their SIP measures or programs to: (a) decrease energy demand through the use of energy efficiency and (b) increase the use within their State of Combined Heat and Power (CHP) and other clean Distributed Generation technologies including fuel cells, wind and solar.”⁶⁵ Delaware stated that it implemented a

number of measures with regard to this Ask. Some of these include the Energy Task Force Executive Order signed on April 26, 2002, the Delaware Energy Efficiency Advisory Council (EEAC), the 2005 Renewable Energy Portfolio Standards Act which is the basis for Delaware’s renewable energy portfolio standards (RPS), and the Regional Greenhouse Gas Initiative (RGGI), to name a few. Based on these measures, Delaware concluded it is meeting Ask 6. Additional details about Delaware’s response to Ask 6 can be found in the TSD of this proposed rulemaking action.

b. EPA’s Evaluation of Delaware’s Response to the Six MANE-VU Asks and Compliance With 40 CFR 51.308(f)(2)(i)

EPA is proposing to find that Delaware has satisfied the requirements of 40 CFR 51.308(f)(2)(i) related to evaluating sources and determining the emission reduction measures that are necessary to make reasonable progress by considering the four statutory factors.

Through Ask 1, MANE-VU instructed States to “ensure the most effective use of control technologies on a year-round basis to consistently minimize emissions of haze precursors or obtain equivalent alternative emission reductions” at EGUs with a nameplate capacity larger than or equal to 25 megawatts (MW) with already installed NO_x and/or SO₂ controls.⁶⁶

EPA reviewed and evaluated Delaware’s response to the four-factor analyses on the four sources with permits that did not require NO_x controls year-round on some of their units and found that the State agreed with Calpine’s conclusions for each of the sources. For ChEC and EMEC, Delaware agreed that it is not economically feasible to operate their NO_x existing controls year-round because the units’ operation and, hence, NO_x emissions are both limited. On the other hand, for GEC and HREC, Delaware agreed that it is not technically feasible to retrofit the sources’ NO_x existing controls to operate year-round due to the same conclusion that operation and NO_x emissions are limited. To support their conclusion, on table 10–2 of the SIP submittal, Delaware included the annual average operating hours and NO_x emissions of the sources for a five-year period, which demonstrate the generally limited operation and the significantly low NO_x emissions in recent years (*i.e.*, the tons of NO_x emitted per unit per year ranging from less than two to less than 150).

⁵⁷ See 87 FR 41074 (July 11, 2022).

⁵⁸ See appendix 8–12 “MANE-VU Regional Haze Consultation Report.”

⁵⁹ See appendix 8–7 “McKee Run Permit Cancellation Letter.”

⁶⁰ See appendix 8–12 “MANE-VU Regional Haze Consultation Report.”

⁶¹ See table 10–4 (Delaware Units Affected by HEDD “Ask #5”) of the DE Regional Haze SIP submittal at 110.

⁶² See table 10–5 (Average Operating Hours and NO_x Emissions for Units Under “Ask #5”) of the DE Regional Haze SIP submittal at 111.

⁶³ Per the DE Regional Haze SIP submittal section 10.5, costs were based on similar projects in other states for the one facility, and vendor quotes and EPA’s Air Pollution Control Cost Manual for the other facility.

⁶⁴ See section 10.5 of the DE Regional Haze SIP submittal.

⁶⁵ See appendix 8–12 “MANE-VU Regional Haze Consultation Report.”

⁶⁶ *Id.*

EPA agrees with Delaware that it is not reasonable to upgrade any of the sources' NO_x existing controls due to the extremely low emission reductions that would have been achieved, and that the costs of compliance, as demonstrated through the four-factor analyses, are not justified by the low amount of NO_x emission reductions that the sources would achieve if these were reconfigured. More information on the amount of NO_x emitted from these units can be found in the TSD at 32–33.

EPA also reviewed and evaluated the State's selection and modification of the applicable EGUs' title V permits to incorporate the regional haze requirements of the second planning period. To meet Ask 1, DNREC updated ChEC, EMEC, and HREC's title V permits after conducting four-factor analyses. For ChEC, DNREC added the 88 ppm NO_x emission limit during April and October. For EMEC and HREC, DNREC added language requiring the facilities to operate and maintain their existing NO_x control systems in accordance with Calpine's maintenance protocol. Based on the above, EPA thus agrees with Delaware's conclusions and proposes to find that Delaware reasonably satisfied Ask 1.

For Ask 2, MANE–VU requested that States “perform a four-factor analysis for reasonable installation or upgrade to emissions controls” for specified sources. MANE–VU developed its Ask 2 list of sources for analysis by performing modeling and identifying facilities with the potential for 3.0 inverse megameters (Mm^{−1}) or greater impacts on visibility at any Class I Area in the MANE–VU region.⁶⁷

As an initial matter, EPA does not necessarily agree that MANE–VU 3.0 Mm^{−1} visibility impact is a reasonable threshold for source selection. The RHR recognizes that, due to the nature of regional haze visibility impairment, numerous and sometimes relatively small sources may need to be selected and evaluated for control measures in order to make reasonable progress. See 2021 Clarifications Memo at 4. As explained in the 2021 Clarifications Memo, while states have discretion to choose any source selection threshold that is reasonable, “[a] state that relies on a visibility (or proxy for visibility impact) threshold to select sources for four-factor analysis should set the threshold at a level that captures a meaningful portion of the State's total contribution to visibility impairment to Class I Areas.” 2021 Memo at 3. In this case, the 3.0 Mm^{−1} threshold did not

identify sources in Delaware (only 22 across the entire MANE–VU region), indicating that it may be unreasonably high.⁶⁸

However, EPA proposes to find that Delaware reasonably determined that it has satisfied Ask 2. As explained above, we do not necessarily agree that a 3.0 Mm^{−1} threshold for selecting sources for four-factor analysis results in a set of sources the evaluation of which has the potential to meaningfully reduce the State's contribution to visibility impairment. MANE–VU's Ask 2 did not identify any source in Delaware for a four-factor analysis; however, as part of EPA's evaluation, we note that other MANE–VU Asks identified multiple sources and sectors for four-factor analyses in Delaware, and Delaware did evaluate additional control measures and conducted four-factor analyses through other Asks to meet the regional haze requirements for the second planning period. Ask 2 is not the only source selection process for this State, and thus EPA is basing this proposed finding on the State's consideration of the four factors and units and sectors analyzed in Asks 1, 3, and 5.

Ask 3 requests that, for “each MANE–VU State that has not yet fully adopted an ultra-low fuel oil standard as requested by MANE–VU in 2007”, to “pursue this standard as expeditiously as possible and before 2028, depending on supply availability.” EPA proposes to find that Delaware reasonably relied on MANE–VU's four-factor analysis for a low-sulfur fuel oil regulation, which engaged with each of the statutory factors and explained how the information supported a conclusion that a 15 ppm-sulfur fuel oil standard for fuel oils is reasonable. Delaware's ultra-low sulfur fuel oil regulations,⁶⁹ which, as previously stated, were approved into Delaware's SIP on July 11, 2022 (87 FR 41074), are consistent with Ask 3. EPA therefore proposes to find that Delaware

reasonably determined that it has satisfied Ask 3.

MANE–VU Ask 4 requests that States “pursue updating permits, enforceable agreements, and/or rules to lock-in lower emission rates for SO₂, NO_x, and PM” at “EGUs and other large point emission sources larger than 250 MMBTU per hour heat input that have switched to lower emitting fuels.” Ask 4 also states that “the permit, enforceable agreement, and/or rule can allow for suspension of the lower emission rate during natural gas curtailment.” Delaware concluded that no additional updates were needed to meet Ask 4 because the EGU that fell under this Ask, Calpine EMEC, switched operations to lower emitting fuels and has already locked into the lower emission rates for NO_x, SO₂, and PM by permits. In addition, the McKee Run Generating Station, that fell under this Ask, had its permits cancelled on November 12, 2021. Finally, modified units in Delaware are required to amend their permits through the New Source Review (NSR) process if they plan to switch back to coal or a fuel that will increase emissions. A change in fuel, unless already allowed in the permit, would generally be a modification,⁷⁰ and Delaware's operating permits regulations require that an application to modify the permit be submitted prior to the change in fuel.⁷¹

EPA proposes to find that Delaware reasonably determined it has satisfied Ask 4. This is because the permitting and regulatory requirements outlined above, including the fact that sources that have switched fuel are generally required to revise their permits to reflect the change, and because the State rules make any proposed reversion difficult

⁷⁰ See 7 DE Admin Code 1101, defining “Modification” means any physical change in, or change in the method of operation of, any air contaminant source which results in an emission to the atmosphere of a new air contaminant or an increase in the emission rate to the atmosphere of one or more existing air contaminants. Upon modification, an existing source shall become subject to 7 DE Admin Code 1120 only with respect to those pollutants which, after modification, are either newly emitted, or emitted at an increased rate. Routine maintenance, repair and replacement shall not be considered a modification. Conversion to coal required for energy considerations, as specified in section 113(d)(5) of the 1977 Clean Air Act, shall not be considered a modification. The relocation of an existing facility shall be considered a modification whenever the Department determines it necessary to maintain ambient air quality standards. Change in ownership of an existing facility shall not be considered a modification. This definition shall not apply to 7 DE Admin Code 1125.

⁷¹ See 7 DE Admin Code 1101, “Operating Permits,” which states that “written notice that the operation of any air contaminant source or control device has been approved by the Department.”

⁶⁷ See appendix 8–12 “MANE–VU Regional Haze Consultation Report.”

⁶⁸ Even though MANE–VU's 3.0 Mm^{−1} threshold did not identify sources in Delaware, two EGU sources were selected for CALPUFF modeling and identified as impacting two Class I Areas, Shenandoah National Park (SHEN) and James River Face National Park (JARI). These sources were the Indian River and the Edge Moor Energy Centers, whose highest impacts to these Class I Areas were at 1.7 Mm^{−1} in 2011 and 0.5 Mm^{−1} in 2015 from Indian River to SHEN, 1.1 Mm^{−1} in 2011 and 0.7 Mm^{−1} in 2015 from Indian River to JARI, 0.2 Mm^{−1} in 2011 and none in 2015 from Edge Moor to SHEN, and 0.4 Mm^{−1} in 2011 and none in 2015 from Edge Moor to JARI. Nonetheless, their impacts were well below the 3.0 Mm^{−1} threshold during the selected base years of 2011 and 2015. See DE Regional Haze SIP submittal at 75.

⁶⁹ See 7 DE Admin Code 1108 “Sulfur Dioxide Emissions from Fuel Burning Equipment.”

by requiring permitting and other control analyses, including NSR.

Ask 5 requested that “where emission rules have not been adopted,” MANE–VU States “control NO_x emissions for peaking combustion turbines that have the potential to operate on HEDD” by meeting at least one of three options: (a) striving to meet NO_x emissions standards specified in the Ask for turbines that run on natural gas and fuel oil, (b) performing a four-factor analysis for reasonable installation of or upgrade to emission controls, or (c) obtaining equivalent alternative emission reductions on HEDD.⁷²

For Ask 5, EPA reviewed and evaluated Delaware’s response to the four-factor analyses on the five sources and found that the State agreed with Calpine’s conclusions for each of the sources. Delaware agreed that it is economically and technically infeasible to retrofit the sources’ existing NO_x controls or to add new NO_x controls to further reduce NO_x emissions during HEDD, because the units’ operation and, hence, NO_x emissions are both limited. To support their conclusion, on table 10–5 of the SIP submittal, Delaware included the annual average operating hours and NO_x emissions of the sources for a five-year period, which demonstrate the limited operation and the significantly low NO_x emissions in recent years (*i.e.*, less than 4.5 tons of NO_x emitted per unit per year). EPA agrees with Delaware that it is not reasonable to upgrade any of the sources’ NO_x existing controls or to install new controls due to the extremely low emission reductions that would have been achieved, and that the costs of compliance, as demonstrated through the four-factor analyses, are not justified by the low amount of NO_x emission reductions that the sources would achieve if these were reconfigured. More information on the extremely low amount of NO_x emitted from these units with can be found in the TSD at 32–33.

EPA also reviewed and evaluated the State’s selection and modification of the applicable EGUs’ title V permits to incorporate the regional haze requirements of the second planning period. To meet Ask 5, DNREC updated ChEC, DEC, and WEC’s Title V permits after conducting four-factor analyses and added the 88 ppm NO_x emission limit during April and October. Delaware issued the new permits on May 19, 2021 and included them in appendix 10–2 of its SIP submittal; redacted copies of these permits were

subsequently resubmitted to EPA with an effective date of December 19, 2023 so that the portions relevant to compliance with the regional haze requirements of the second planning period could be incorporated into the Delaware SIP.⁷³ Based on the above-mentioned facts, EPA thus agrees with Delaware’s conclusions and proposes to find that Delaware reasonably determined it has satisfied Ask 5.

Through Ask 6, MANE–VU requests that “each State should consider and report in their SIP measures or programs to: (a) decrease energy demand through the use of energy efficiency, and (b) increase the use within their State of Combined Heat and Power (CHP) and other clean Distributed Generation technologies including fuel cells, wind, and solar.”⁷⁴ The fact that Delaware has listed its various greenhouse gas initiatives and clean energy requirements within the State including Executive Order 31—Energy Task Force, energy efficiency initiatives such as the EEAC, grants programs, Delaware Energy Code Coalition, and CHP Grant Pathway Program, RPS, RGCI, Delaware’s Climate Change Impact Assessment and a Climate Action Plan, suggests that Delaware has in fact reasonably satisfied the Ask. EPA is therefore proposing to find that Delaware has reasonably determined it has met Ask 6’s request to consider and report in its SIP measures or programs related to energy efficiency, cogeneration, and other clean distributed generation technologies.

Based on all of the above, EPA is proposing to find that—based on Delaware’s participation in the MANE–VU planning process, how it has addressed each of the Asks, its supplemental information and explanation regarding NO_x sources and emissions, and EPA’s additional

assessment of Delaware’s emissions and point sources—Delaware has complied with the requirements of 40 CFR 51.308(f)(2).⁷⁵

As explained above, Delaware relied on MANE–VU’s technical analyses and framework (*i.e.*, the Asks) to select sources and form the basis of its long-term strategy. MANE–VU conducted an inventory analysis to identify the source sectors that produced the greatest amount of SO₂ and NO_x emissions in 2011; inventory data were also projected to 2018. Based on this analysis, MANE–VU identified the top-emitting sectors for each of the two pollutants, which for SO₂ include coal-fired EGUs, industrial boilers, oil-fired EGUs, and oil-fired area sources including residential, commercial, and industrial sources. Major-emitting sources of NO_x include on-road vehicles, non-road vehicles, and EGUs. The RPO’s documentation explains that “[EGUs] emitting SO₂ and NO_x and industrial point sources emitting SO₂ were found to be sectors with high emissions that warranted further scrutiny. Mobile sources were not considered in this analysis because any ask concerning mobile sources would be made to EPA and not during the intra-RPO and inter-RPO consultation process among the states and tribes.” EPA proposes to find that Delaware reasonably evaluated the two pollutants—SO₂ and NO_x—that currently drive visibility impairment within the MANE–VU region and that it adequately explained and supported its decision to focus on these two pollutants through its reliance on the MANE–VU technical analyses cited in its submission.

Section 51.308(f)(2)(i) requires States to evaluate and determine the emission reduction measures that are necessary to make reasonable progress by applying the four statutory factors to sources in a control analysis. As explained previously, the MANE–VU Asks are a mix of measures for sectors and groups of sources identified as reasonable for States to address in their regional haze plans. While MANE–VU formulated the Asks to be “reasonable emission reduction strategies” to control emissions of visibility impairing pollutants, EPA believes that Delaware’s responses to four of the Asks, in particular, engage with the requirement that States determine the emission reduction measures that are necessary to make reasonable progress through consideration of the four factors. Specifically, MANE–VU Asks 1, 2, 3

⁷³ DNREC public noticed the submission of the three Calpine Title V permits to the Delaware SIP on February 4, 2024; these permits were substantively identical to those issued by DNREC on May 21, 2021, and were updated to remove language designating the April and October NO_x limit as state enforceable only. DNREC accepted public comment regarding the submittal of the permits to the SIP through March 5, 2024. No public comment was received. DNREC submitted the three permits as a supplement to its original Second Visibility Plan to EPA on March 7, 2024. On May 28, 2024, DNREC provided a clarification of this supplemental SIP submittal that specified which provisions of the Title V permits it intended to be incorporated by reference into the Delaware SIP. As a result, the 88 ppm NO_x emission limit as extended to April and October and related permit conditions will be federally enforceable. These permits and their associated public notice and transmittal letters are included in the rulemaking docket for this action.

⁷⁴ See appendix 8–12 “MANE–VU Regional Haze Consultation Report.”

⁷⁵ More details about how Delaware met the requirements of 40 CFR 51.308(f)(2) can be found in the TSD of this rulemaking action.

⁷² See appendix 8–12 “MANE–VU Regional Haze Consultation Report.”

and 5 engage with the requirement that States evaluate and determine the emission reduction measures that are necessary to make reasonable progress by considering the four statutory factors. EPA is proposing to find that Delaware's approach to Asks 1, 2, 3 and 5 is reasonable because it demonstrated that the sources and source sectors with impacts on visibility either: (1) have reduced their emissions so significantly that it is clear a four-factor analysis would not yield further reasonable emission reductions, (2) completed four-factor analyses and adopted economically feasible controls, or (3) are subject to stringent emission control measures. Delaware's SIP-approved control measures, emissions inventory⁷⁶ and information provided in response to comments⁷⁷ demonstrate that the sources of SO₂ and NO_x within the State that would be expected to contribute to visibility impairment have low emissions of NO_x and SO₂, are well controlled, or both. Therefore, it is reasonable to assume that selecting additional sources for four-factor analysis would not have resulted in additional emission reduction measures being determined to be necessary to make reasonable progress for the second implementation period. EPA is proposing to incorporate the redacted permits submitted on March 7, 2024 into the SIP.

c. Additional Long-Term Strategy Requirements

The consultation requirements of 40 CFR 51.308(f)(2)(ii) provide that States must consult with other States that are reasonably anticipated to contribute to visibility impairment in a Class I Area to develop coordinated emission management strategies containing the emission reductions measures that are necessary to make reasonable progress. Section 51.308(f)(2)(ii)(A) and (B) require States to consider the emission reduction measures identified by other States as necessary for reasonable progress and to include agreed upon measures in their SIPs, respectively. Section 51.308(f)(2)(ii)(C) speaks to what happens if States cannot agree on what measures are necessary to make reasonable progress.

Delaware participated in and provided documentation of the MANE-VU intra- and inter-RPO consultation processes and addressed the MANE-VU Asks by providing information on the measures it has in place that satisfy each

Ask.^{78 79} MANE-VU also documented disagreements that occurred during consultation. MANE-VU noted in their Consultation Report that upwind States expressed concern regarding the analyses the RPO utilized for the selection of States for the consultation. MANE-VU agreed that these tools, as all models, have their limitations, but nonetheless deemed them appropriate. Additionally, there were several comments regarding the choice of the 2011 modeling base year. MANE-VU agreed that the choice of base year is critical to the outcome of the study. MANE-VU acknowledged that there were newer versions of the emission inventories and the need to use the best available inventory for each analysis. However, MANE-VU disagreed that the choice of these inventories was not appropriate for the analysis. Upwind States also suggested that MANE-VU States adopt the 2021 timeline for regional haze SIP submissions for the second planning period. MANE-VU agreed with the reasons the comments provided, such as collaboration with data and planning efforts. However, MANE-VU disagreed that the 2018 timeline would prohibit collaboration. Additionally, upwind States noted that they would not be able to address the MANE-VU Asks until they finalize their SIPs. MANE-VU believed the assumption of the implementation of the Asks from upwind States in its 2028 control case modeling was reasonable.

In sum, Delaware participated in the MANE-VU intra- and inter-RPO consultation and satisfied the MANE-VU Asks, satisfying 40 CFR 51.308(f)(2)(ii)(A) and (B). Delaware satisfied 40 CFR 51.308(f)(2)(ii)(C) by participating in MANE-VU's consultation process, which documented the disagreements between the upwind States and MANE-VU and explained MANE-VU's reasoning on each of the disputed issues. Based on the entirety of MANE-VU's intra- and inter-RPO consultation and both MANE-VU's and Delaware's responses to States' comments on the SIP submission and various technical analyses therein, we propose to determine that Delaware has satisfied the consultation requirements of 40 CFR 51.308(f)(2)(ii).

The documentation requirement of 40 CFR 51.308(f)(2)(iii) provides that States may meet their obligations to document

the technical bases on which they are relying to determine the emission reductions measures that are necessary to make reasonable progress through an RPO, as long as the process has been "approved by all State participants." As explained above, Delaware chose to rely on MANE-VU's technical information, modeling, and analysis to support development of its long-term strategy. The MANE-VU technical analyses on which Delaware relied are listed in the State's SIP submission and include source contribution assessments, information on each of the four factors and visibility modeling information for certain EGUs, and evaluations of emission reduction strategies for specific source categories. Delaware also provided supplemental information to further demonstrate the technical bases and emission information on which it relied on to determine the emission reductions measures that are necessary to make reasonable progress. Based on the documentation provided by the State, we propose to find Delaware satisfies the requirements of 40 CFR 51.308(f)(2)(iii).

Section 51.308(f)(2)(iii) also requires that the emissions information considered to determine the measures that are necessary to make reasonable progress include information on emissions for the most recent year for which the State has submitted triennial emissions data to EPA (or a more recent year), with a 12-month exemption period for newly submitted data. Delaware's SIP submission included 2017 NEI emission data for NO_x, SO₂, PM, VOCs and NH₃, and 2017 Air Markets Program Data (AMPD) emissions for NO_x and SO₂. Delaware's SIP submission also included 2019 AMPD for NO_x and SO₂.⁸⁰ Based on Delaware's consideration and analysis of the 2017 and 2019 emission data in their SIP submittal and supplemental documentation, EPA proposes to find that Delaware has satisfied the emissions information requirement in 40 CFR 51.308(f)(2)(iii).

We also propose to find that Delaware reasonably considered the five additional factors in 40 CFR 51.308(f)(2)(iv) in developing its long-term strategy. Pursuant to 40 CFR 51.308(f)(2)(iv)(A), Delaware noted that existing and ongoing State and Federal emission control programs that contribute to emission reductions through 2028 would impact emissions of visibility impairing pollutants from point and nonpoint sources in the second implementation period.

⁸⁰ See section 7.1 of the DE Regional Haze SIP submittal.

⁷⁶ See appendix 1–1, "Selection of States for MANE-VU Regional Haze Consultation (2018)—Final".

⁷⁷ See the "Response to Comment Memo" document in the docket of this rulemaking action.

⁷⁸ See appendix 9–2 "Inter-RPO Consultation Briefing Book;" appendix 8–12 "MANE-VU Regional Haze Consultation Report;" and appendix 8–13 "National Park Service Letters (April 2018)."

⁷⁹ See appendix 4–1 "Federal Land Manager Comments and Delaware Response;" and document "7. Response to Comment Memo."

Delaware included in its SIP comprehensive lists of control measures with their effective dates, pollutants addressed, and corresponding Delaware Administrative Code provisions.⁸¹

Delaware's consideration of measures to mitigate the impacts of construction activities as required by 40 CFR 51.308(f)(2)(iv)(B) began during the Regional Haze first implementation period. Delaware indicated that it has regulations that mitigate potential impacts of construction on visibility such as the 7 DE Admin Code 1106, which regulates particulate emissions from construction and materials handling in the State. In addition, Delaware stated that based on the 2017 NEI, commercial construction emissions of PM_{2.5} were 135 tons, which makes up only 3% of the PM_{2.5} emissions inventory within the State. Delaware concluded that *"Because the contribution from construction dust is small, Delaware is determining that no changes in its regulatory program for construction dust is necessary to make reasonable progress."*⁸²

Pursuant to 40 CFR 51.308(f)(2)(iv)(C), source retirements and replacement schedules are addressed in section 8.8 of Delaware's submission. Source retirements and replacements were considered in developing the 2028 emission projections, with on the books/on the way retirements and replacements included in the 2028 projections, with on the books/on the way retirements and replacements included in the 2028 projections. The EGU point sources included in the inventories used in the MANE-VU contribution assessment and that were subsequently retired are identified in Delaware's SIP submittal as McKee Run and Indian River Generating Stations. No non-EGU point source retirements in Delaware were considered when developing the 2028 emissions projections.

In considering smoke management as required in 40 CFR 51.308(f)(2)(iv)(D), Delaware explained, in section 8.9 of its submission, that emission contribution from prescribed agricultural and forest burning within the State are low; PM_{2.5} statewide emissions from prescribed fires were 36 tons and emissions from agricultural burning were 60 tons (2% of Delaware's overall PM_{2.5} emissions inventory). Delaware therefore concludes that it is unlikely that fires in Delaware for agricultural or forestry management cause impacts on visibility

in the MANE-VU and nearby Class I Areas, including the Brigantine Wilderness Class I Area. Delaware states that Smoke Management Plans (SMPs) is a required element of a SIP only if it is required to make reasonable progress, and that Delaware does not need an official SMP since both a speciation trends analysis report⁸³ and Delaware's 2014 emissions inventory data show that agricultural and forestry management woodsmoke emissions are low. However, Delaware notes that under 7 DE Admin 1113 for Open Burning, during the months of May to September, both prescribed and agricultural burning are prohibited, and even though DNREC does not consider open burning regulation an SMP, the regulation does benefit Class I Areas to some degree.

Delaware considered the anticipated net effect of projected changes in emissions as required by 51.308(f)(2)(iv)(E) by discussing, in section 8.10 of its submission, the photochemical modeling for the 2018–2028 period it conducted in collaboration with MANE-VU. The two modeling cases run were a 2028 base case, which considered only on-the-books controls, and a 2028 control case that considered implementation of the MANE-VU Ask. Delaware presented the differences between the base and control cases on the 20% most impaired and 20% clearest days for each MANE-VU Class I Area.⁸⁴

Because Delaware has reasonably considered each of the five additional factors, EPA proposes to find that Delaware has satisfied the requirements of 40 CFR 51.308(f)(2)(iv).

F. Reasonable Progress Goals

Section 51.308(f)(3) contains the requirements pertaining to RPGs for each Class I Area. Section 51.308(f)(3)(i) requires a State in which a Class I Area is located to establish RPGs—one each for the most impaired and clearest days—reflecting the visibility conditions that will be achieved at the end of the implementation period as a result of the emission limitations, compliance schedules and other measures required under paragraph (f)(2) to be in States' long-term strategies, as well as implementation of other CAA requirements. The long-term strategies as reflected by the RPGs must provide for an improvement in visibility on the most impaired days relative to the baseline period and ensure no degradation on the clearest days relative

to the baseline period. Section 51.308(f)(3)(ii) applies in circumstances in which a Class I Area's RPG for the most impaired days represents a slower rate of visibility improvement than the uniform rate of progress calculated under 40 CFR 51.308(f)(1)(vi). Under 40 CFR 51.308(f)(3)(ii)(A), if the State in which a mandatory Class I Area is located establishes an RPG for the most impaired days that provides for a slower rate of visibility improvement than the URP, the State must demonstrate that there are no additional emission reduction measures for anthropogenic sources or groups of sources in the State that would be reasonable to include in its long-term strategy. Section 51.308(f)(3)(ii)(B) requires that if a State contains sources that are reasonably anticipated to contribute to visibility impairment in a Class I Area in *another* State, and the RPG for the most impaired days in that Class I Area is above the URP, the upwind State must provide the same demonstration. Because Delaware has no Class I Areas within its borders, it is subject only to 40 CFR 51.308(f)(3)(ii)(B).

Under 40 CFR 51.308(f)(3)(ii)(B), a State that contains sources that are reasonably anticipated to contribute to visibility impairment in a Class I Area in another State for which a demonstration by the other State is required under 40 CFR 51.308(f)(3)(ii)(B) must demonstrate that there are no additional emission reduction measures that would be reasonable to include in its long-term strategy. Delaware's SIP submittal included MANE-VU's glidepath checks for nearby downwind Class I Areas,⁸⁵ such as the Brigantine Wilderness Class I Area,⁸⁶ which show that the RPG for the 20 percent most anthropogenically impaired days for the affected downwind Class I Areas (Acadia, Moosehorn, Great Gulf, Lye Brook, Brigantine, Shenandoah, Dolly Sods and James River Face) are not above the URP glidepath, and that the RPG for the 20 percent clearest days shows no degradation. In addition, the modeled MANE-VU 2028 visibility projections at nearby Class I Areas show that the base case 2028 projections for the most impaired days at these areas are below the respective 2028 points on the URPs. Therefore, we propose it is reasonable to assume that the demonstration requirement under 40 CFR

⁸¹ See section 8.6. of the DE Regional Haze SIP submittal.

⁸² 7 DE Admin Code 1106—Particulate Emissions from Construction and Materials Handling.

⁸³ See appendix 8–8 "Hopke Report".

⁸⁴ See Figure 8–2 of DE Regional Haze SIP submittal at 86.

⁸⁵ See appendix 8–6 "Regional Haze Metrics Trends and HYSPLIT Trajectory Analyses".

⁸⁶ See Figure 8–2 "Brigantine Wilderness Area Haze Metrics Trends" in the DE Regional Haze SIP submittal at 86.

51.308(f)(3)(ii)(B) as it pertains to these areas will not be triggered.

EPA proposes to determine that Delaware has satisfied the applicable requirements of 40 CFR 51.308(f)(3) relating to RPGs.

G. Monitoring Strategy and Other Implementation Plan Requirements

Section 51.308(f)(6) specifies that each comprehensive revision of a State's regional haze SIP must contain or provide for certain elements, including monitoring strategies, emissions inventories, and any reporting, recordkeeping and other measures needed to assess and report on visibility. A main requirement of this section is for States with Class I Areas to submit monitoring strategies for measuring, characterizing, and reporting on visibility impairment. Compliance with this requirement may be met through participation in the IMPROVE network.

Section 51.308(f)(6)(i) requires SIPs to provide for the establishment of any additional monitoring sites or equipment needed to assess whether reasonable progress goals to address regional haze for all mandatory Class I Areas within the State are being achieved. Section 51.308(f)(6)(ii) requires SIPs to provide for procedures by which monitoring data and other information are used in determining the contribution of emissions from within the State to regional haze visibility impairment at mandatory Class I Areas both within and outside the State. Because Delaware does not have any Class I Areas located within its borders, § 51.308(f)(6)(i) and (ii) do not apply.

Section 51.308(f)(6)(iii) requires States with no Class I Areas to include procedures by which monitoring data and other information are used in determining the contribution of emissions from within the State to regional haze visibility impairment at Class I Areas in other States. States with Class I Areas must establish a monitoring program and report data to EPA that is representative of visibility at the Class I Areas. The IMPROVE network meets this requirement. Delaware stated that, it has conducted receptor modeling and emissions inventory analysis to determine source contributions from within the State, and the proportional impacts of those sources to areas outside the State. Even though, Delaware does not have IMPROVE monitors, Delaware agrees that NESCAUM is providing quality technical information by using the IMPROVE program data and the Visibility Information Exchange Web

System (VIEWS) site for the regional haze purposes.

Section 51.308(f)(6)(iv) requires the SIP to provide for the reporting of all visibility monitoring data to the Administrator at least annually for each Class I Area in the State. As noted above, Delaware does not have any Class I Areas located within its borders, therefore this requirement does not apply.

Section 51.308(f)(6)(v) requires SIPs to provide for a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment, including emissions for the most recent year for which data are available and estimates of future projected emissions. It also requires a commitment to update the inventory periodically. Delaware provides for emissions inventories and estimates for future projected emissions by participating in the MANE-VU RPO and complying with EPA's Air Emissions Reporting Rule (AERR). In 40 CFR part 51, subpart A, the AERR requires States to submit updated emissions inventories for criteria pollutants to EPA's Emissions Inventory System (EIS) every three years. The emission inventory data is used to develop the NEI, which provides for, among other things, a triennial statewide inventory of pollutants that are reasonably anticipated to cause or contribute to visibility impairment.

Section 7 of Delaware's submission includes tables of NEI data. The source categories of the emissions inventories included are: (1) point sources, (2) nonpoint sources, (3) non-road mobile sources, and (4) on-road mobile sources. The point source category is further divided into AMPD point sources and non-AMPD point sources.⁸⁷ Delaware included NEI emissions inventories for the following years: 2002 (one of the regional haze program baseline years), 2008, 2011, 2014, and 2017;⁸⁸ and for the following pollutants: NO_x, PM₁₀, PM_{2.5}, SO₂, VOCs, and NH₃. Delaware also provided a summary of SO₂ and NO_x emissions for AMPD sources for the years of 2016, 2017, 2018, and 2019.⁸⁹

Section 51.308(f)(6)(v) also requires States to include estimates of future projected emissions and include a commitment to update the inventory periodically. Delaware relied on the MANE-VU 2028 emissions projections

for MANE-VU States. MANE-VU completed two 2028 projected emissions modeling cases—a 2028 base case that considers only on-the-books controls and a 2028 control case that considers implementation of the MANE-VU Asks.⁹⁰

EPA proposes to find that Delaware has met the requirements of 40 CFR 51.308(f)(6) as described above, including through its continued participation in the IMPROVE network and the MANE-VU RPO and its ongoing compliance with the AERR, and that no further elements are necessary at this time for Delaware to assess and report on visibility pursuant to 40 CFR 51.308(f)(6)(vi).

H. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals

Section 51.308(f)(5) requires that periodic comprehensive revisions of States' regional haze plans also address the progress report requirements of 40 CFR 51.308(g)(1) through (5). The purpose of these requirements is to evaluate progress towards the applicable RPGs for each Class I Area within the State and each Class I Area outside the State that may be affected by emissions from within that State. Section 51.308(g)(1) and (2) apply to all States and require a description of the status of implementation of all measures included in a State's first implementation period regional haze plan and a summary of the emission reductions achieved through implementation of those measures. Section 51.308(g)(3) applies only to States with Class I Areas within their borders and requires such States to assess current visibility conditions, changes in visibility relative to baseline (2000–2004) visibility conditions, and changes in visibility conditions relative to the period addressed in the first implementation period progress report. Section 51.308(g)(4) applies to all States and requires an analysis tracking changes in emissions of pollutants contributing to visibility impairment from all sources and sectors since the period addressed by the first implementation period progress report. This provision further specifies the year or years through which the analysis must extend depending on the type of source and the platform through which its emission information is reported. Finally, 40 CFR 51.308(g)(5), which also applies to all States, requires an assessment of any significant changes in

⁸⁷ AMPD sources are facilities that participate in EPA's emission trading programs. The majority of AMPD sources are EGUs.

⁸⁸ See section 7 of the DE Regional Haze SIP submittal at 29.

⁸⁹ See sections 7.1.1 and 7.1.4 in the Delaware Regional Haze SIP submittal.

⁹⁰ See appendix 7–2 “OTC MANE-VU 2011 Based Modeling Platform Support Document October 2018—Final.”

anthropogenic emissions within or outside the State that have occurred since the period addressed by the first implementation period progress report, including whether such changes were anticipated and whether they have limited or impeded expected progress towards reducing emissions and improving visibility.

Delaware's submission describes the status of measures of the long-term strategy from the first implementation period. As a member of MANE-VU, Delaware considered the MANE-VU Asks and adopted corresponding measures into its long-term strategy for the first implementation period. The MANE-VU Asks were: (1) timely implementation of BART requirements; (2) EGU controls including Controls at 167 Key Sources that most affect MANE-VU Class I Areas; (3) low sulfur fuel oil strategy; and (4) continued evaluation of other control measures. Delaware met all the identified reasonable measures requested during the first implementation period. During the first planning period for regional haze, programs that were put in place focused on reducing SO₂ emissions. The reductions achieved led to vast improvements in visibility at the MANE-VU Class I Areas due to reduced sulfates formed from SO₂ emissions. Delaware describes in section 11 of its submittal control measures put in place during the first implementation period to help reduce the emissions of visibility impairing pollutants, including NO_x and SO₂. This includes a non-trading emissions control regulation⁹¹ for EGUs to aid in the attainment of ozone and PM ambient air quality standards and reduce emissions of neurotoxin mercury. Delaware Stated that the regulation "*provides for stringent control of EGU NO_x and SO₂ emissions by implementation of unit-specific annual NO_x and SO₂ mass emissions caps and short term (rolling 24-hour) NO_x and SO₂ emission rate limits (lb/MMBTU).*" Delaware added that implementation of the 7 DE Admin Code 1146, among other measures, like related consent decrees and permit conditions, have served to significantly reduce Delaware's NO_x and SO₂ emissions from the EGUs that were subject to it and demonstrated it in table 10–8 and Figure 10–1 of the DE Regional Haze SIP submittal. The first step change reduction of NO_x and SO₂ emissions happened in 2009, corresponding to the promulgation of 7 DE Admin Code 1146. Based on the data, by 2019, the EGUs that were

subject to this State regulation had reduced their SO₂ and NO_x mass emissions by 30,197 tpy and 8,005 tpy, which is approximately 99% and 98% emissions reductions, respectively.

Delaware also described the status of the implementation of primary particulate matter BART for the respective eligible EGUs, how they were able to meet the 90% or greater SO₂ reduction emissions at 167 stacks inside and outside of MANE-VU, their low sulfur fuel oil standards⁹² for the State, and the status of other control methods⁹³ established during and after the first implementation period.

EPA proposes to find that Delaware has met the requirements of 40 CFR 51.308(g)(1) and (2) because its SIP submission describes the measures included in the long-term strategy from the first implementation period, as well as the status of their implementation and the emission reductions achieved through such implementation.

Section 51.308(g)(3) requires States to assess Reasonable Progress Goals, including current visibility conditions and changes, for any Class I Areas within the State. As described above, Delaware does not have any Class I Areas within its borders, therefore § 51.308(g)(3) does not apply.

Pursuant to 40 CFR 51.308(g)(4), in section 7 of their submittal, Delaware provided a summary of emissions of NO_x, PM₁₀, PM_{2.5}, SO₂, VOCs, and NH₃ from all sources and activities, including from point, nonpoint, non-road mobile, and on-road mobile sources, for the time period from 2002 to 2017. Delaware also included AMPD data for SO₂ and NO_x emissions for 2016, 2017, 2018 and 2019 in their submission.

The reductions achieved by Delaware emission control measures are seen in the emissions inventory. Based on Delaware's SIP submission, NO_x emissions have continuously declined in Delaware from 2002 through 2017, especially in the point, nonroad and onroad mobile sectors. During that period, onroad sources contributed almost half of the emissions at 41%, followed by area sources at 21%. Nonroad sources contributed 15% and point sources contributed the least at 14%. Table 7–2 of Delaware's SIP submittal also shows additional NO_x emissions data from 2016 to 2019 for Delaware's point sources that report to EPA's AMPD.⁹⁴ NO_x emissions are

expected to continue to decrease as fleet turnover occurs and the older more polluting vehicles and equipment are replaced by newer, cleaner ones.⁹⁵

Emissions of PM₁₀ have generally remained relatively stable and in a downward trend in Delaware from 2002 to 2017, particularly in the point, nonroad and onroad sectors, see section 7.1.2 and table 7–7 of Delaware's SIP submittal. The variations in the onroad are due to changes in emission inventory calculation methodologies, which resulted in higher particulate matter estimates in the other years than in 2002. The large variation in emissions in the nonpoint category is due to changes in calculation methodologies for residential wood burning and fugitive dust categories, which have varied significantly. Similar trends are observed for emissions of PM_{2.5} in Delaware from 2002 to 2017, see section 7.1.3 and table 7–10 of Delaware's SIP submittal. As with PM₁₀, some of the variations could be due to changes in estimation methodologies for categories such as yard waste burning, paved and unpaved road dust and residential wood combustion.

Emissions of SO₂ have shown a steady significant decline in Delaware over the period 2002 to 2017, across all multiple sectors.⁹⁶ Delaware stated that these reductions are primarily due to promulgation of 7 DE Admin Code 1146 and 1108.⁹⁷ Additionally, some of these decreases are attributable to the MANE-VU low sulfur fuel strategy and the 90% or greater reduction in SO₂ emissions at 167 EGU stacks, both inside and outside of MANE-VU, requested in the "Non-MANE-VU Ask" for States within MANE-VU for the first regional haze planning period.⁹⁸

Table 7–21 of Delaware's SIP submittal shows VOC emissions from all NEI data categories for the period 2002 to 2017 in Delaware, which have shown a steady decline. VOC decreases were achieved in all sectors due to Federal and State rules for evaporative sources of VOC emissions such as portable fuel containers; architectural, industrial, and maintenance coatings (AIM); adhesives and sealants, consumer products; and solvent degreasing.⁹⁹ The State added

⁹⁵ *Id.*

⁹⁶ See section 7.1.4 and table 7–15 of DE Regional Haze SIP submittal.

⁹⁷ *Id.*

⁹⁸ Statement of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Concerning a Course of Action within MANE-VU Toward Assuring Reasonable Progress. (otcair.org/MANEVU/Upload/Publication/Formal%20Actions/Statement%20on%20Controls%20in%20MV_072007.pdf).

⁹⁹ Delaware added that the State has promulgated regulations for portable fuel containers, AIM

⁹¹ See 7 DE Admin Code 1146 "Electric Generating Unit Multi-Pollutant Regulation."

⁹² See DE Regional Haze SIP submittal section 10.3 at 109.

⁹³ See DE Regional Haze SIP submittal section 8.6 at 76.

⁹⁴ See DE Regional Haze SIP submittal section 7.1.1.

that other decreases are due to States' VOC RACT rules and due to State motor vehicle Inspection & Maintenance (I&M) programs and the permeation of more on-board refueling vapor recovery (ORVR) equipped vehicles into the fleet.

Emissions of NH₃ have shown declines in Delaware from 2002 to 2017; see section 7.1.6 and table 7–24 of Delaware's SIP submittal. Ammonia decreases were achieved in the onroad sector due to Federal new engine standards for vehicles and equipment. Nonpoint increases and decreases from 2002 to 2014 are due to reporting, grouping and methodology changes. While ammonia emissions were stable between 2014 and 2017 inventories, there was a slight increase in ammonia emissions from 2011 and 2014. The increase is due to methodology changes and the addition of NH₃ emissions from domestic and wild animals in 2014.

EPA is proposing to find that Delaware has satisfied the requirements of 40 CFR 51.308(g)(4) by providing emissions information for NO_x, PM₁₀, PM_{2.5}, SO₂, VOCs, and NH₃ broken down by type of source.

Delaware uses the emissions trend data in the SIP submission¹⁰⁰ and supporting MANE–VU information¹⁰¹ provided to support the assessment that anthropogenic haze-causing pollutant emissions in Delaware have decreased during the reporting period and that changes in emissions have not limited or impeded progress in reducing pollutant emissions and improving visibility. Delaware's 2017 emission inventories for NO_x, PM₁₀, PM_{2.5}, SO₂, VOCs, and NH₃ were lower than their 2014 emission inventories for those same pollutants emissions.¹⁰² EPA is proposing to find that Delaware has met the requirements of 40 CFR 51.308(g)(5).

I. Requirements for State and Federal Land Manager Coordination

Section 169A(d) of the Clean Air Act requires States to consult with FLMs before holding the public hearing on a proposed regional haze SIP, and to include a summary of the FLMs' conclusions and recommendations in the notice to the public. In addition, 40

CFR 51.308(i)(2)'s FLM consultation provision requires a State to provide FLMs with an opportunity for consultation that is early enough in the State's policy analyses of its emission reduction obligation so that information and recommendations provided by the FLMs can meaningfully inform the State's decisions on its long-term strategy. If the consultation has taken place at least 120 days before a public hearing or public comment period, the opportunity for consultation will be deemed early enough. Regardless, the opportunity for consultation must be provided at least sixty days before a public hearing or public comment period at the State level. Section 51.308(i)(2) also provides two substantive topics on which FLMs must be provided an opportunity to discuss with States: assessment of visibility impairment in any Class I Area and recommendations on the development and implementation of strategies to address visibility impairment. Section 51.308(i)(3) requires States, in developing their implementation plans, to include a description of how they addressed FLMs' comments.

The States in the MANE–VU RPO conducted FLM consultation early in the planning process concurrent with the state-to-state consultation that formed the basis of the RPO's decision making process. As part of the consultation, the FLMs were given the opportunity to review and comment on the technical documents developed by MANE–VU. The FLMs were invited to attend the intra- and inter-RPO consultations calls among States and at least one FLM representative was documented to have attended seven intra-RPO meetings and all inter-RPO meetings. Delaware participated in these consultation meetings and calls.¹⁰³

As part of this early engagement with the FLMs, on April 12, 2018, the NPS sent letters to the MANE–VU States requesting that they consider specific individual sources in their long-term strategies.¹⁰⁴ NPS used an analysis of emissions divided by distance (Q/d) to estimate the impact of MANE–VU facilities. To select the facilities, NPS first summed 2014 NEI NO_x, PM₁₀, SO₂, and SO₄ emissions and divided by the distance to a specified NPS mandatory Class I Federal area. NPS summed the Q/d values across all MANE–VU States relative to Acadia, Mammoth Cave and Shenandoah National Parks, ranked the

Q/d values relative to each Class I Area, created a running total, and identified those facilities contributing to 80% of the total impact at each NPS Class I Area. NPS applied a similar process to facilities in Maine relative to Acadia National Park. NPS merged the resulting lists of facilities and sorted them by their States. NPS suggested that a State consider those facilities comprising 80% of the Q/d total, not to exceed the 25 top ranked facilities. The NPS identified two facilities in Delaware in this letter.¹⁰⁵ Delaware included the NPS initial letter in their proposed SIP. In a subsequent letter dated October 22, 2018, NPS identified two facilities for which more control information was desired. Delaware detailed the emission controls and updates to the two facilities to address the NPS's request for more information.¹⁰⁶

On February 11, 2021, Delaware submitted a draft Regional Haze SIP to the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the National Park Service for a 60-day review and comment period pursuant to 40 CFR 51.308(i)(2).¹⁰⁷ Delaware received comments from the Forest Service on March 31, 2021, and from the National Park Service on April 9, 2021. Delaware responded to the FLM comments and included the responses in appendix 4–1 of their submission to EPA, in accordance with 40 CFR 51.308(i)(3). Notices of the proposed SIP, availability and the public hearing were published on DNREC's website and in the Delaware Register, and interested parties were emailed the notice, along with air quality contacts from other States, air quality regional organizations and the EPA. A public hearing on the proposed SIP revision was held on December 29, 2021. Written comments relevant to the proposal were accepted until the close of business January 13, 2022.

For the reasons stated above, EPA proposes to find that Delaware has satisfied the requirements under 40 CFR 51.308(i) to consult with the FLMs on its regional haze SIP for the second implementation period.

Delaware's August 2022 SIP submission includes a commitment to revise and submit a regional haze SIP by July 31, 2028, and every ten years thereafter. The State's commitment includes submitting periodic progress reports in accordance with 40 CFR 51.308(f) and a commitment to evaluate

coatings, adhesives and sealants, consumer products and solvent degreasing. See section 8.6.3 of DE's Regional Haze SIP submittal.

¹⁰⁰ See section 7 of the DE Regional Haze SIP Submittal.

¹⁰¹ See appendices 7–1 and 7–2, "Technical Support Document for 2011 for the Northeastern U.S. Gamma Inventory (January 2018)" and "Ozone Transport Commission/Mid-Atlantic Northeastern Visibility Union 2011 Based Modeling Platform Support Document—October 2018 Update (October 2018)," respectively.

¹⁰² See section 7 of the DE Regional Haze SIP Submittal.

¹⁰³ See appendices 9–1, 9–3 and 9–4 of the DE Regional Haze SIP submittal, "MANE–VU Intra-Regional Ask," "Inter-RPO Ask," and "MANE–VU FLM Ask," respectively.

¹⁰⁴ *Id.*

¹⁰⁵ See appendix 8–13 "National Park Service Letters."

¹⁰⁶ See appendix 4–1 "Federal Land Manager Comments and Delaware Response."

¹⁰⁷ *Id.*

progress towards the reasonable progress goal for each mandatory Class I Area located within the State and in each mandatory Class I Area located outside the State that may be affected by emissions from within the State in accordance with 40 CFR 51.308(g).¹⁰⁸

V. Proposed Action

EPA is proposing to approve Delaware's August 8, 2022, SIP submission, and supplemental SIP submission dated March 7, 2024, as satisfying the regional haze requirements for the second implementation period contained in 40 CFR 51.308(f).

VI. Incorporation by Reference

In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference specific provisions of the revised title V permits for Calpine Christiana Energy Center, Calpine Delaware City Energy Center, and Calpine West Energy Center, dated and effective December 19, 2023, between DNREC and Calpine Mid-Atlantic Generation, LLC, which includes emission limits and associated permit conditions for these facilities to comply with Regional Haze requirements for the 2nd Planning Period, as discussed in section IV of this preamble. These permit revisions are contained in DNREC's supplemental SIP submittal dated March 7, 2024, submitted on behalf of the State of Delaware; the portions of these permit revisions that will be incorporated by reference into the SIP are clarified by the DNREC Air Quality Division Director via a letter dated May 28, 2024. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 3 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been proposed for approval by EPA for inclusion in the SIP, will be incorporated by reference by EPA into that plan, will be fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission

that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a).

Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean

that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies." The Delaware Department of Natural Resources and Environmental Control did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

In addition, this proposed rulemaking action, pertaining to Delaware's regional haze SIP submission for the second planning period, is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2024-18174 Filed 8-16-24; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 190

[Docket No. PHMSA-2022-0118]

RIN 2137-AF61

Pipeline Safety: Cost Recovery for Siting Reviews for LNG Facilities

AGENCY: Pipeline and Hazardous Materials Safety Administration

¹⁰⁸ See section 12, "Determination of the Adequacy of the Existing Plan" of the DE Regional Haze SIP submittal.

(PHMSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: PHMSA is proposing a new fee for cost recovery for siting reviews of liquefied natural gas (LNG) facility project applications where the design and construction costs total \$2.5 billion or more. This proposed rule is necessary to implement section 103 of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020 (PIPES Act of 2020), and to help provide adequate resources for siting reviews to promote the public safety and environmental protection objectives of the Office of Pipeline Safety (OPS). This proposed rule also revises current regulations authorizing PHMSA's cost recovery for design safety reviews of gas, hazardous liquid, and carbon dioxide pipeline facilities to improve the clarity of the regulations and reduce unnecessary administrative burdens.

DATES: Individuals interested in submitting written comments on this NPRM must do so by October 18, 2024.

ADDRESSES: Comments should reference Docket No. PHMSA–2022–0118 and may be submitted in any of the following ways:

- *E-Gov Web:* <http://www.regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.
- *Mail:* Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9:00 a.m. and 5:00 p.m. EST, Monday through Friday, except federal holidays.
- *Fax:* 202–493–2251.

Instructions: Include the agency name and identify Docket No. PHMSA–2022–0118 at the beginning of your comments. Note that all comments received will be posted without change to <https://www.regulations.gov> including any personal information provided. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under

the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to provide confidential treatment to the information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as “Confidential;” (2) send PHMSA a copy of the original document with the CBI deleted along with the original, unaltered document; and (3) explain why the information you are submitting is CBI. Submissions containing CBI should be sent to Alyssa Imam, 1200 New Jersey Avenue SE, DOT: PHMSA–PHP–30, Washington, DC 20590–0001. Any comment PHMSA receives that is not explicitly designated as CBI will be placed in the public docket.

Privacy Act Statement

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.

Docket: To access the docket, which contains background documents and any comments that PHMSA has received, go to <https://www.regulations.gov>. Follow the online instructions for accessing the docket. Alternatively, you may review the documents in person at DOT's Docket Management Office at the address listed above.

FOR FURTHER INFORMATION CONTACT:

Alyssa Imam by telephone at 202–738–4203 or via email at alyssa.imam@dot.gov.

SUPPLEMENTARY INFORMATION:

- I. Summary
- II. Background and Justification
- III. Proposed Amendments
- IV. Section-by-Section Analysis
- V. Regulatory Analyses and Notices

I. Summary

This proposed rulemaking would implement a mandate in the PIPES Act of 2020 (Pub. L. 116–260, Division R) to amend the pipeline safety regulations (49 CFR parts 190–199) to prescribe a fee assessment methodology for PHMSA

to recover its costs in performing 49 CFR part 193, subpart B, siting reviews of applications for new or expanded LNG facilities with project design and construction costs totaling \$2.5 billion or more. PHMSA expects that the cost recovery mechanisms proposed in this NPRM will help ensure that PHMSA maintains adequate resources to perform those siting reviews without diverting its limited resources from other critical dimensions of its regulatory oversight of jurisdictional gas (including LNG), hazardous liquid, and carbon dioxide pipeline facilities, while ensuring the costs associated with the review are borne by the project applicant rather than by all pipeline operators through the expenditure of operator user fees. The proposed rule would also revise current regulations authorizing PHMSA's cost recovery for design safety reviews of gas, hazardous liquid, and carbon dioxide pipeline facilities to improve the clarity of the regulations and reduce unnecessary administrative burdens.

II. Background and Justification

PHMSA conducts both a facility design safety review and siting review of LNG facilities under part 193. PHMSA conducts facility design safety reviews in connection with applications to the Federal Energy Regulatory Commission (FERC) or state regulators (as applicable) to construct, expand, or operate gas (including LNG) and hazardous liquid (as well as carbon dioxide¹) pipeline facilities; those reviews include reviews of application materials and inspections verifying construction in accordance with the application and pipeline safety regulations.

Prior to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Act, Pub. L. 112–90), PHMSA did not recover costs incurred for conducting facility design safety reviews for LNG facilities or any other pipelines. Section 13 of the 2011 Act, 49 U.S.C. 60117(o), authorized PHMSA to recover costs for facility design safety reviews if the project application either involved design and construction costs totaling at least \$2.5 billion, or involved new or novel technologies, designs (such as LNG facilities, whose design, construction, and employed technology will often materially change from one project to the next), or new materials. While the 2011 Act allowed PHMSA to

¹ PHMSA in a parallel rulemaking (under RIN2137–AF64) will consider expanding the carbon dioxide pipelines subject to PHMSA regulation—and by extension, the pipelines subject to cost recovery under part 190 for PHMSA's design safety reviews.

recover fees for its costs incurred in performing facility design safety reviews, the 2011 Act did not allow PHMSA to expend any collected fees absent specific appropriation by Congress.

In 2017, PHMSA exercised the authority granted in section 13(a) of the 2011 Act by prescribing a fee structure and assessment methodology based on the costs of providing design safety reviews of applications for gas (including LNG) or hazardous liquid (including carbon dioxide) pipeline facilities.² In that final rule, PHMSA amended the pipeline safety regulations at part 190, subpart E, to prescribe a fee structure and assessment methodology for recovering costs associated with design safety reviews of applications for new projects for gas, hazardous liquid, LNG, and carbon dioxide pipeline facilities (each with design and construction costs totaling at least \$2.5 billion, or that contain new and novel technologies).

PHMSA is also responsible for the review of LNG facility siting; that review is an input to FERC's evaluation of applications for authorization to construct and operate a new LNG facility (or an expansion of an existing LNG facility). During the LNG facility siting review, PHMSA assesses the siting packages prepared by the applicants for new or expanded LNG facility projects for compliance with siting regulations at part 193, subpart B.

PHMSA had historically not been authorized by statute to assess fees recovering its costs associated with those reviews.³ However, in section 103 of the PIPES Act of 2020, Congress added a new statutory mandate at 49 U.S.C. 60303 allowing PHMSA to collect fees directly from operators of LNG facilities to recover the necessary expenses PHMSA incurs to perform subpart B siting reviews in connection with applications for new or expanded, large (\$2.5 billion or more project design and construction cost). But Congress did not make that new statutory authority self-executing; rather, in 49 U.S.C. 60303(b)(1), Congress directed PHMSA to "prescribe procedures" for collection

of those fees. And although Congress omitted from the statutory language at 49 U.S.C. 60303 explicit authorization to use fees collected from operators without subsequent congressional appropriations, in the Consolidated Appropriations Act of 2023 (2023 Act, Pub. L. 117–328), Congress appropriated \$400,000 to the Liquefied Natural Gas Siting Account for use of any monies collected from cost recovery for LNG facility subpart B siting reviews.⁴

Therefore, PHMSA proposes in this NPRM to implement the section 103 mandate in the PIPES Act of 2020 by amending its existing cost recovery regulations at part 190, subpart E, to establish procedures for assessment and recovery of its necessary expenses in performing part 193, subpart B, siting reviews for applications for large (\$2.5 billion or more) projects for new or expanded LNG facilities. PHMSA understands that codification of those procedures within its regulations is a prerequisite for PHMSA accessing funds appropriated by Congress for such reviews in the 2023 Act and any future appropriations legislation. Cost recovery of LNG facility siting reviews also ensures the beneficiaries of those reviews (some of whom may not pay PHMSA any user fees pursuant to 49 U.S.C. 60301) bear the costs, rather than other pipeline operators via their own annual user fee obligations. PHMSA also notes that its access to funds recovering the costs of its part 193, subpart B, siting reviews is critically important given the increasing strain placed on its limited resources by such reviews. Many of the same PHMSA personnel performing part 193, subpart B, siting reviews are also responsible for other regulatory oversight activities (e.g., design safety reviews, inspections, enforcement, and guidance and regulation development) related to LNG facilities and other jurisdictional pipeline facilities. This challenge has become increasingly pressing in recent years, as PHMSA has performed part 193, subpart B, siting reviews in connection with dozens of new or expanded LNG facilities of different sizes and project costs. OPS reports that among those facilities, large projects (in particular, those projects with design and construction costs of \$2.5 billion or more) have proven the most challenging. OPS estimates that PHMSA engineers and support personnel have historically spent an aggregate of around 550 person-hours—roughly equivalent to a quarter of the total working hours

a single PHMSA engineer works in a year—on each part 193, subpart B, siting review conducted for those projects.⁵ Lastly, the demands on PHMSA personnel resources in performing LNG facility siting reviews comes at the same moment as PHMSA's jurisdictional responsibilities have increased. PHMSA has recently expanded the scope of pipeline facilities for which it provides regulatory oversight to include Type C gas gathering pipelines, and in a forthcoming rulemaking consider expanding the scope of its part 195 regulations to address increased interest in expansion of pipeline infrastructure supporting carbon capture, use, and sequestration applications.⁶

III. Proposed Amendments

The existing regulations in 49 CFR part 190, subpart E, prescribe a fee structure and assessment methodology for recovering costs from design safety reviews of applications to FERC for new or expanded gas, LNG, hazardous liquid, and carbon dioxide pipeline facility projects with either project design and construction costs totaling at least \$2.5 billion, or that contain new or novel technologies and designs. PHMSA proposes to revise part 190, subpart E, to also prescribe a fee structure and assessment methodology for recovering costs associated with its 49 CFR part 193, subpart B, siting reviews of applications for new or expanded LNG facility projects with design and construction costs totaling at least \$2.5 billion. This proposal will execute PHMSA's authority granted in section 103 of the PIPES Act of 2020; PHMSA expects the commercial, public safety, and environmental benefits of this NPRM's proposed regulatory amendments described herein will outweigh any associated costs and support PHMSA's proposed rule compared to alternatives.

PHMSA's proposed regulatory amendments are expected to improve public safety and reduce threats to the environment by ensuring that PHMSA has adequate funding to perform high-quality part 193, subpart B, LNG facility siting reviews without diverting resources from other critical regulatory

² PHMSA, "Final Rule—Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Changes," 82 FR 7972 (Jan. 23, 2017).

³ PHMSA notes that for a period of time it worked around this legislative gap by entering into a Memorandum of Understanding and related Interagency Agreement with FERC by which FERC reimbursed PHMSA for the latter's part 193, subpart B, siting reviews. Memorandum of Understanding (MOU) <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/news/64706/ferc-phmsa-mou.pdf>. The Interagency Agreement was extended several times before expiring in September 2022.

⁴ Absent action by Congress, the funds appropriated by the 2023 Act will expire at the end of FY2025 (Oct. 1, 2025).

⁵ PHMSA also notes that many of the large LNG facility projects in fact involve two part 193, subpart B, siting reviews, each consisting of nearly identical work efforts—one in advance of issuance of a FERC certificate authorizing construction and operation of a facility, and another in response to material changes in the design of the facility during the construction phase.

⁶ PHMSA, "Final Rule—Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments," 86 FR 63266 (Nov. 15, 2021); see also n.1 above.

oversight functions over jurisdictional gas (including LNG), hazardous liquid, and carbon dioxide pipeline facilities. The proposed amendments also ensure that the costs of performing siting reviews are borne by the project applicants rather than through annual user fees paid by all pipeline facility operators. PHMSA also expects its proposed amendments would be technically feasible, reasonable, cost-effective, and practicable for affected entities seeking FERC authorization for large (\$2.5 billion or more) LNG facility project applications. PHMSA's proposed requirement that applicants provide notice and supporting documentation to PHMSA in parallel with submission of their certificate application to FERC is an incremental addition on existing FERC procedural requirements. And although PHMSA's proposed fees for LNG facility part 193, subpart B, siting reviews would be a new line item cost for such applicants, PHMSA's projections for those fees for each review (found in section V.B below) would be trivial (roughly 0.0024 percent) compared to the \$2.5 billion minimum design and construction costs of pertinent project applications. Further, PHMSA has designed its proposed approach to imposing fees in a way that maximizes regulatory certainty for affected entities. Specifically, PHMSA is proposing each part 193, subpart B, siting review fee to consist of (1) an up-front fee for estimated costs calculated from historical personnel costs involved in performing siting reviews for LNG facility project applications with design and construction costs of \$2.5 billion or more; and (2) a true-up payment to PHMSA at conclusion of that review should PHMSA's costs exceed the fee paid up-front based on PHMSA's estimated historical personnel costs. PHMSA's timely access to adequate financial resources to perform part 193, subpart B, siting reviews as those reviews initiate also benefits project applicants by facilitating timely completion of such reviews, while ensuring that PHMSA complies with the applicable legal requirements under appropriations law and 49 U.S.C. 60303. Viewed against those considerations and the compliance costs estimated in section V.A of this NPRM, PHMSA expects its proposed amendments will be a cost-effective approach to achieving the commercial, public safety, and environmental benefits discussed herein. Lastly, PHMSA believes that its proposed compliance timelines—based on an effective date of the proposed requirement of 120 days after

publication of a final rule in this proceeding (which would be in addition to the time since issuance of this NPRM)—would provide affected project applicants ample time to manage any related compliance costs.

A. Expand the Scope of and Criteria for Cost Recovery To Include LNG Facility Siting Reviews (§§ 190.401 and 190.403)

Section 190.401 describes the scope of the part 190, subpart E, cost recovery requirements, which currently do not allow for cost recovery for part 193, subpart B, siting reviews for LNG facility project applications. PHMSA proposes to amend the scope of its cost recovery regulation at § 190.401 to add a new paragraph (b) extending that provision's scope to include siting reviews for large (\$2.5 billion or more design and construction costs) LNG facility project applications, and require the applicant proposing a project to pay fees for the costs incurred by PHMSA relating to such reviews. This amendment would execute the mandate in section 103 of the PIPES Act of 2020 that PHMSA collect costs incurred for performing those LNG facility siting reviews of applications for new or expanded LNG facility projects with project design and construction costs totaling at least \$2.5 billion. This change would also clarify that cost recovery for those LNG facility siting reviews must meet the criteria for applicability specified in § 190.403. PHMSA also proposes a clerical amendment to existing language listing pipeline facilities subject to cost recovery to better align the existing text of § 190.401 (relocated within a new paragraph (a)) with the applicability requirements in § 190.403.

Section 190.403 specifies which applications⁷ for pipeline facility projects are subject to cost recovery requirements. PHMSA has reviewed the current regulatory language in paragraph (a) of that provision and has concluded that much of that language is expansive enough that it does not need amendment to allow for cost recovery of PHMSA's part 193, subpart B, siting reviews. The language in paragraph (a) refers broadly to "applications" for "projects" without explicitly limiting those projects in terms of the type of review (e.g., those governing design safety reviews or LNG facility siting reviews) PHMSA conducts. Paragraph (a) also employs a monetary threshold for each project application subject to

PHMSA cost recovery (project design and construction costs of least \$2.5 billion) that is identical to the threshold identified in the statutory authorization for part 193, subpart B, siting review cost recovery in section 103 of the PIPES Act of 2020. However, because PHMSA understands that applications to FERC for LNG facilities do not always contain estimated design and construction costs for those facilities,⁸ PHMSA proposes amendment of existing paragraph (a)(ii) to provide for forwarding to PHMSA of a good faith estimate of design and construction costs for those projects that do not include such estimated costs in their FERC application. PHMSA has also revised and relocated within a new paragraph (a)(1)(iii) other language within existing paragraph (a)(1)(ii) describing the cost elements informing development of such good faith estimates. PHMSA also proposes a conforming revision to paragraph (c) clarifying that the estimated costs of design and construction of a pipeline facility is among the "related materials" applicants should submit to PHMSA pursuant to § 190.403.

Paragraph (b) of § 190.403 also currently contains language codifying in regulation the statutory language at 49 U.S.C. 60117(o)(1)(A) barring PHMSA from "double-dipping" to recover costs for the same design/construction reviews via both its cost recovery authority pursuant to 49 U.S.C. 60117(o) and its authority to impose user fees pursuant to 49 U.S.C. 60301. Specifically, paragraph (b) states that "[t]he Associate Administrator may not collect design safety review fees under this section [implementing 49 U.S.C. 60117(o)] and 49 U.S.C. 60301 for the same design safety review." The PIPES Act of 2020 codified at 49 U.S.C. 60303(a)(2) an analogous prohibition preventing PHMSA from "double-dipping" to recover costs associated with its part 193, subpart B, siting reviews for LNG facilities pursuant to both 49 U.S.C. 60303 and either of its 49 U.S.C. 60117(o) design/construction cost recovery authority or its 49 U.S.C.

⁸ PHMSA also understands that applicants for FERC certificates for LNG facility projects will often submit with their application for the LNG facility an application for the gas supply pipeline connecting the LNG facility to the interstate gas transmission system. Because PHMSA understands its \$2.5 billion monetary threshold applies only to the design and construction costs for the LNG facility itself (and not its natural gas supply pipeline), PHMSA expects that applicants will distinguish between the costs of those facilities when submitting notifications to PHMSA as proposed in this NPRM.

⁷ PHMSA does not expect that entities engaging in mandatory or discretionary pre-filing processes with FERC or those other authorities need to notify PHMSA until formal submission of their project application.

60301 user fee authority.⁹ PHMSA therefore proposes to amend § 190.403(b) to incorporate that new statutory prohibition into regulation. PHMSA has also made clerical amendments to the existing § 190.403(b) to accommodate the addition of that new statutory prohibition.

Lastly, PHMSA's proposal would make changes in § 190.403 to identify materials it reviews when performing a part 193, subpart B, LNG facility siting review. Specifically, PHMSA proposes a new paragraph (d)—modeled on existing paragraph (c) identifying materials PHMSA reviews in connection with its design safety reviews for gas (including LNG), hazardous liquid, and carbon dioxide pipelines—for part 193, subpart B, LNG facility siting reviews. From those materials, the Associate Administrator shall develop and provide, as soon as practicable after notification of an application pursuant to § 190.405, an estimated cost for performing that review. PHMSA has chosen this approach for cost recovery for LNG facility siting reviews to ensure it has adequate resources in place to perform such reviews on initiation, thereby avoiding the need for protracted negotiation of a Master Agreement as provided by existing part 190, subpart E, cost recovery for design safety reviews.

B. Expand Notification Requirements To Include Applications for LNG Facility Projects With Design and Construction Costs Totaling or Exceeding \$2.5 Billion (§ 190.405)

Section 190.405 requires the applicant for any new pipeline facility project in which PHMSA will conduct a design safety review to notify PHMSA and provide with that notification specific materials that (including the design specifications and construction plans and procedures) PHMSA will typically examine during such reviews. Section 190.405 also identifies a 90-day target for PHMSA to provide the applicant its written feedback on those materials.

PHMSA now proposes a handful of amendments of § 190.405 for improved cost recovery procedural mechanics and to accommodate extension of that provision's notification requirements to part 193, subpart B, siting reviews for LNG facility project applications. Specifically, PHMSA proposes redesignating the existing text in

§ 190.405 as a new paragraph (a), and amending that language to explicitly address part 193, subpart B, LNG facility siting reviews. Consistent with its proposed expansion of the § 193.405 notification requirement, PHMSA also proposes adding examples of additional siting-related activities (e.g., site preparation) that are important milestones related to siting of an LNG facility within the list of existing design/construction-focused activities triggering the § 193.405 documentation requirement. PHMSA also proposes a new paragraph (b) stating that it reserves discretion to delay initiation of its part 193, subpart B, LNG facility siting reviews until receipt of payment in full of the estimated review costs provided for a project application pursuant to proposed § 190.403(d).

PHMSA also proposes a new paragraph (c) stating explicitly that LNG facility project applicants seeking part 193, subpart B, LNG facility siting reviews must provide PHMSA timely notification of both material changes to an application (*i.e.*, changes to project applications resulting in significant changes to the materials submitted to PHMSA pursuant to § 190.405(a)) and any change in the estimated design and construction costs for the project (*e.g.*, as a result of those changes to the design and construction of the facilities, or increased labor, material, or financing costs) that would result in the project meeting or exceeding the monetary threshold in § 190.403(a)(1).¹⁰ LNG facilities are time, capital, labor, and material-intensive projects—changes in the cost of one or more of those factors may result in design and construction costs rising significantly between submission of a FERC application and completion of construction. PHMSA's proposed change would ensure that PHMSA will be able to recover its costs in conducting part 193, subpart B, LNG facility siting reviews as project costs increase above the \$2.5 billion monetary threshold for cost recovery. Similarly, design changes during the construction phase of an LNG facility project (*i.e.*, after issuance of the FERC certificate) may materially affect assumptions supporting the analysis within PHMSA's part 193, subpart B, siting review, necessitating PHMSA perform that review again. Notification of those design changes will facilitate PHMSA's recovery of its costs in performing any

additional part 193, subpart B, siting reviews required by material changes to facility design during construction.

C. Conform Amendments to Master Agreement Requirements for Facility Design Safety Reviews (§ 190.407)

Section 190.407 describes the content of Master Agreements entered into between PHMSA and applicants for those projects the Associate Administrator has determined recovery of PHMSA's costs in performing facility design safety reviews is necessary. PHMSA proposes clarifying revisions to the prefatory language of this provision to reflect the expansion of part 190, subpart E, cost recovery procedures to allow for cost recovery for part 193, subpart B, LNG facility siting reviews.

D. Expand Fee Structure To Include LNG Siting Reviews (§ 190.409)

Section 190.409 describes the cost recovery fee structure for design reviews of gas (including LNG), hazardous liquid, and carbon dioxide pipeline facilities with overall design and construction costs totaling at least \$2.5 billion, or that contain new or novel technologies and designs. PHMSA proposes adding LNG siting reviews to § 190.409 with no change to the species of qualifying costs identified in this provision. PHMSA proposes revising the introductory text to codify that the basis of the fees that PHMSA will charge is to recover the costs for LNG facility siting reviews.

Applicable to all facilities, PHMSA is also proposing to remove the definition of “necessary for” in § 190.409. In the context of the fee structure, § 190.409 currently states that the costs will be based only on costs “necessary for” conducting the facility design safety review. Section 190.409 goes on to state that “necessary for” means “that but for the facility design safety review, the costs would not have been incurred and that the costs cover only those activities and items without which the facility design safety review cannot be completed.” PHMSA is proposing to remove this definition from this section to improve the readability of § 190.409, and to avoid confusion regarding what is or is not a cost that would not have been incurred “but for” a design safety or LNG facility siting review. PHMSA notes that some of the same PHMSA personnel may continue to perform regulatory oversight of compliance with pipeline safety regulations before and after reviews subject to part 190, subpart E, cost recovery are completed such that attribution of personnel costs exclusively to that review will prove impracticable in practice. That said,

⁹ Should an applicant for an LNG facility project voluntarily request PHMSA consider design and construction elements within PHMSA's part 193, subpart B, siting review, PHMSA reserves discretion to recover costs for review of those elements during one or both of its part 193, subparts B (siting) or C and D (design & construction) safety reviews.

¹⁰ PHMSA expects that cost recovery for part 193, subpart B, siting reviews proposed herein will attach to any notification—whether an initial notification per proposed paragraph (a), or a later notification per proposed paragraph (c)—submitted to PHMSA after the effective date of a final rule in this proceeding.

PHMSA notes that other existing or proposed procedural mechanics in part 190, subpart E, will serve the same purpose as the deleted reference to “necessary” costs by addressing the double-dipping concern that had motivated introduction of that language in § 190.409. First, the language at § 190.409(b) would codify in regulation the statutory prohibitions against double-dipping at 49 U.S.C. 60117(o)(1)(A) and 49 U.S.C. 60303(a)(2). Second, the negotiation of Master Agreements (to include audit rights) for design safety reviews pursuant to § 190.407(a)(3) would provide opportunities for applicants to ensure PHMSA’s cost recovery is focused on its bona fide costs in performing those reviews. Third, and lastly, PHMSA has designed the fee structure for LNG facility siting reviews proposed herein based on historical personnel costs in performing those reviews.

E. Modify Billing and Payment Procedures To Require Payment Upon Receipt (§ 190.411)

Section 190.411 describes the procedural mechanics for billing and payment of facility design safety reviews for which the Associate Administrator has determined that cost recovery is necessary. PHMSA proposes several amendments to this provision to introduce procedures specific to billing and payment of fees for PHMSA’s costs in performing part 193, subpart B, LNG facility siting reviews. First, PHMSA proposes to redesignate the current prefatory text governing billing and payment of fees for design safety reviews as a new paragraph (a); current paragraphs (a) through (d) will be redesignated as paragraphs (a)(1) through (4).

Second, PHMSA proposes redesignating as a new paragraph (c) current language at paragraph (e) asserting its discretion to exercise regulatory oversight notwithstanding any receipt of fees for recovery of its

costs for facility design safety reviews. PHMSA also proposes amendments to newly designated paragraph (c) for clarity, and to reflect the proposed amendment of part 190, subpart E, cost recovery procedures to include cost recovery for LNG facility siting reviews.

Third, PHMSA proposes a new paragraph (b) establishing billing and payment procedures for each part 193, subpart B, LNG facility siting review. Specifically, before initiation of each review, PHMSA will provide applicants a bill for its estimated costs and will not begin its review until payment of the fee for those estimated costs.¹¹ The up-front fee for PHMSA’s estimated costs has been calculated as \$65,000 for calendar year 2024. That value is derived from the personnel costs associated with historical work efforts (measured in hours and set forth in the table below) by PHMSA personnel involved in performing siting reviews for LNG facility project applications with design and construction costs of \$2.5 billion or more.

TABLE 1—HOURS ASSOCIATED WITH HISTORICAL WORK EFFORTS

Title	Pay grade	Estimated number of hours contributing to complete part 193 siting review for \$2.5 billion project
Deputy Associate Administrator	SES	5
Director	GS-15	10
Supervisory General Engineer	GS-14	68
General Engineer (Lead)	GS-14	420
General Engineer (Support)	GS-9	40
Technical Writer	GS-9	1
Attorney Advisor Manager	GS-15	1
Staff Attorney Advisor	GS-14	8

PHMSA then multiplied those historical work efforts by hourly rates derived from annual salaries for Senior Executive Service (SES) and General Schedule (GS) employees in the Baltimore/Washington area (the location of PHMSA’s headquarters) published within salary tables on the Office of Personnel Management’s (OPM) website.¹² PHMSA used these calculated wages to estimate total personnel costs, including miscellaneous benefits (e.g., FICA, FERS

contribution, health insurance, etc.) not accounted for in OPM salary tables.¹³ PHMSA’s up-front fee for its estimated costs billed to project applicants will automatically change in future calendar years to reflect OPM’s adjustments to those salary tables.

At the conclusion of each part 193, subpart B, LNG facility siting review—but before it issues a finding on compliance—PHMSA will calculate the difference between the fee paid for estimated costs and its actual costs for those costs identified in § 190.409, and

then bill the applicant for the balance. PHMSA also proposes that it would be able to withhold its finding of compliance with part 193, subpart B, requirements until the applicant has paid any outstanding fees. PHMSA does not contemplate that an applicant would be entitled to refund of fees for LNG facility siting reviews paid pursuant to part 190, subpart E, should PHMSA’s actual costs either not meet the up-front fee for estimated costs, or the applicant withdraws or amends an

¹¹ As explained in sections II and III.B above, over the course of its lifecycle from initial application to completion of construction, an LNG facility project may require PHMSA to perform more than one part 193, subpart B, siting review. Therefore, PHMSA notes that each time it has to perform this review (largely identical in terms of work effort), it will impose a separate up-front fee pursuant to § 190.411(b).

¹² OPM, “Salaries and Wages—2024,” <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/> (last visited Mar. 4, 2024). PHMSA further notes that in using those salary tables it has—to yield more conservative numbers regarding the compliance costs for this rulemaking—employed in its calculations salaries corresponding to (1) the fifth step for each grade on the GS scale, and (2) the high end of the range for SES salaries.

¹³ Bureau of Labor Statistics, Press Release No. USDL-23-2567, “Employer Costs for Employee Compensation” (Dec. 15, 2023), <https://www.bls.gov/news.release/pdf/ceec.pdf> (noting that non-salary employee compensation for state and local government employees—which PHMSA believes is a reasonable proxy for federal government employee compensation—makes up 38 percent of total compensation).

application for its project such that it no longer meets the monetary threshold at § 190.403(a).

PHMSA expects the two-stage approach proposed in the new paragraph (b) will ensure it has timely access to funds needed to verify compliance with part 193, subpart B, LNG facility siting requirements. PHMSA notes that those reviews are inputs to decision-making by another agency (FERC); by avoiding potentially protracted negotiation of a Master Agreement as contemplated by current part 190, subpart E, procedures, PHMSA can ensure that, at the initiation of its review, it will have adequate resources to begin and complete those reviews without introducing significant delay in FERC's review of certificate applications for LNG facility projects. And should those estimated costs ultimately prove lower than PHMSA's actual costs, PHMSA proposes a "true-up" mechanism employed at the conclusion of each review to ensure that PHMSA is made whole, thereby reducing the risk of diversion of its limited personnel resources from other jurisdictional oversight activities. Additionally, PHMSA's proposal to condition its issuance of a determination regarding compliance with part 193, subpart B, LNG facility siting review upon receipt of any outstanding fees would avoid scenarios whereby an applicant delays or avoids payment either because they are unhappy with PHMSA's determination or because they have already obtained the benefit of that determination within FERC's certificate review.

IV. Section-by-Section Analysis

Subpart E Title

PHMSA proposes to amend the heading of part 190, subpart E to read, "Cost Recovery for Design Reviews and LNG Siting Reviews." This proposal would clarify that LNG siting reviews are included in the cost recovery requirements in 49 CFR part 190, subpart E.

Section 190.401—Scope

This section describes PHMSA review activities for which the provisions at part 190, subpart E, allow cost recovery. Currently, such cost recovery is limited to recovery of costs associated with PHMSA's design safety review of applications for certain projects involving new or expanded, large gas

(including LNG), hazardous liquid, or carbon dioxide pipeline facilities. PHMSA proposes to amend this section by redesignating the current regulatory text as paragraph (a); adding a new paragraph (b) to codify that PHMSA will recover its costs in conducting LNG facility siting reviews under part 193, subpart B; and making a clerical revision within paragraph (a) to better align § 190.401 with § 190.403 applicability requirements.

Section 190.403—Applicability

This section describes criteria (including a \$2.5 billion project monetary threshold) for project applications of gas (including LNG), hazardous liquid, or carbon dioxide pipeline facilities in which PHMSA may recover its review costs as contemplated by § 190.401. PHMSA proposes to amend the language in existing paragraph (a)(ii) to provide for application of part 190, subpart E, cost recovery monetary threshold requirements to LNG facility projects whose FERC applications may not contain an estimate of project design and construction costs. PHMSA also proposes to relocate within a new paragraph (a)(1)(iii) existing text at § 190.403(a)(1)(ii) describing the cost elements informing development of such good faith estimates. PHMSA also proposes to introduce a new § 190.403(b) mirroring a statutory prohibition in the PIPES Act of 2020 barring PHMSA from collecting fees under multiple statutory authorities (and their implementing regulations) for the same LNG facility siting review. PHMSA also proposes a conforming revision to paragraph (c) clarifying that the estimated costs of design and construction of a pipeline facility are among the "related materials" applicants should submit to PHMSA pursuant to § 190.403. Lastly, PHMSA proposes to introduce a new paragraph (d) identifying application materials PHMSA will review in connection with its part 193, subpart B, LNG facility siting reviews.

Section 190.405—Notification

This section identifies notification and documentation submission requirements for applicants for large (\$2.5 billion or more design and construction costs) projects on gas, LNG, hazardous liquid, and carbon dioxide pipelines facilities. PHMSA proposes to modify § 190.405 by redesignating the

existing text as a new paragraph (a), and amending that text to accommodate expanded application of those notification requirements to LNG facility siting reviews under part 193, subpart B. PHMSA also proposes to introduce a new paragraph (b) reserving discretion to delay review of submitted materials for LNG facility siting reviews until payment in full of the fee of the estimated costs for such review. Lastly, PHMSA proposes a new paragraph (c) requiring applicants for new or expanded LNG facility projects to notify PHMSA of any material changes to documentation submitted to PHMSA pursuant to § 195.405, or changes to estimated project design and construction costs that would cause the project to exceed the monetary threshold in § 195.403(a).

Section 190.407—Master Agreement

Section 190.407 describes the content of Master Agreements entered into between PHMSA and applicants for those projects the Associate Administrator has determined recovery of PHMSA's costs in performing facility design safety reviews is necessary. PHMSA proposes clarifying revisions to the prefatory language of this provisions to distinguish between procedures for cost recovery in connection with design safety reviews (which will involve applicants entering into Master Agreements for such cost recovery) and part 193, subpart B, LNG facility siting reviews (which will not require applicants to enter into Master Agreements for such cost recovery).

Section 190.409—Fee Structure

PHMSA proposes revising the introductory text to codify the basis of the fees PHMSA will charge to recover the costs for LNG siting reviews. PHMSA also proposes removing the definition of "necessary for" and all uses of "necessary for" in this section, as this language has not served to clarify the regulations as PHMSA intended.

Section 190.411—Procedures for Billing and Payment of Fee

Section 190.411 describes procedures for billing and payment of fees for cost recovery of PHMSA's design safety reviews. PHMSA proposes a series of amendments to this provision to accommodate procedural mechanisms for cost recovery of part 193, subpart B, LNG facility siting reviews.

First, PHMSA proposes to redesignate the current prefatory text governing fees for cost recovery in connection with facility design safety reviews as a new paragraph (a); existing paragraphs (a)–(d) will then be redesignated as paragraphs (1)–(4) within the new paragraph (a).

Second, PHMSA proposes introduction of a new paragraph (b) establishing the procedural mechanism for billing and payment of fees for estimated costs for each LNG facility siting review before PHMSA initiates each review, as well as subsequent adjustment of those fees based on PHMSA's actual costs in performing each review. PHMSA proposes those up-front fees for its estimated costs will be derived from the personnel costs associated with historical work efforts by PHMSA personnel involved in performing siting reviews for LNG facility project applications with design and construction costs of \$2.5 billion or more, and will automatically change in future calendar years to reflect changes in the salaries of pertinent employees memorialized on OPM's website. PHMSA also proposes that, before issuance of a finding of compliance with its part 193, subpart B, requirements, it will bill the project applicant for any difference in the actual costs incurred by PHMSA and the up-front fee for its estimated costs; issuance of PHMSA's compliance determination will be contingent on an applicant's payment of any outstanding fees as a result of that adjustment process.

Third, and lastly, PHMSA proposes redesignating and clarifying the disclaimer at existing paragraph (e) regarding PHMSA's discretion to exercise its authorities under law to protect public safety and the environment as a new paragraph (c).

V. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rule

This proposed rule is published under the authority of the Secretary of Transportation (Secretary) delegated to the PHMSA Administrator pursuant to 49 CFR 1.97. Among the statutory authorities delegated to PHMSA are those set forth in the federal pipeline safety statutes (49 U.S.C. 60101 *et seq.*). Section 60102 authorizes the Secretary to issue regulations governing the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Section 60117(o) directs the Secretary to prescribe procedures for fees recovering

PHMSA's costs in performing design safety reviews for jurisdictional pipeline facilities. Lastly, section 103 of the PIPES Act of 2020 (codified at 49 U.S.C. 60303) requires the Secretary to establish procedures for recovering PHMSA's costs in performing LNG facility siting reviews pursuant to 49 CFR part 193, subpart B.

B. Executive Order 12866 and 14094; DOT Regulatory Policies and Procedures

Executive Order 12866 ("Regulatory Planning and Review"), as amended by Executive Order 14094 ("Modernizing Regulatory Review"), requires that agencies "assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating."¹⁴ Agencies should consider quantifiable measures and qualitative measures of costs and benefits that are difficult to quantify. Further, Executive Order 12866 requires that agencies select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach. Similarly, DOT Order 2100.6A ("Rulemaking and Guidance Procedures") requires that regulations issued by PHMSA and other DOT Operating Administrations consider an assessment of the potential benefits, costs, and other important impacts of the proposed action, and should quantify (to the extent practicable) the benefits, costs, and any significant distributional impacts, including any environmental impacts.

Executive Order 12866 (as amended by Executive Order 14094) and DOT Order 2100.6A require that PHMSA submit "significant regulatory actions" to the Office of Management and Budget (OMB) for review. NPRM is not a significant regulatory action under section 3(f) of Executive Order 12866 ("Regulatory Planning and Review") and, therefore, was not reviewed by OMB; nor is this NPRM considered a significant rulemaking under DOT Order 2100.6A.

Executive Order 12866 (as amended) and DOT Order 2100.6A also require PHMSA to provide a meaningful opportunity for public participation, which reinforces requirements for notice and comment in the Administrative Procedure Act (APA, 5 U.S.C. 551 *et seq.*). In accord with the requirement, PHMSA seeks public comment on the proposals in the NPRM

(including preliminary cost and cost savings analyses pertaining to those proposals, as well as discussions of the public safety, environmental, and equity benefits), as well as any information that could assist in evaluating the benefits and costs of PHMSA's NPRM.

Consistent with Executive Order 12866 (as amended by Executive Order 14094) and DOT Order 2100.6A, PHMSA has assessed the benefits and costs of the proposed rule as well as reasonable alternatives. As discussed in section II above, this rulemaking implements a mandate by Congress in section 103 of the PIPES Act of 2020 for the establishment of procedures for recovery of PHMSA's costs in performing part 193, subpart B, design reviews of large (\$2.5 billion or more design and construction costs) LNG facility project applications to FERC. PHMSA expects the proposed rule could result in unquantified public safety and environmental benefits by preventing the potential diversion of PHMSA's limited resources from the Agency's other pipeline safety regulatory oversight responsibilities to cover costs associated with PHMSA's LNG facility siting reviews for those projects. However, because it is not clear which activities would go unfunded due to the costs of conducting LNG facility siting reviews, PHMSA is unable to quantify those benefits with a meaningful degree of certainty.

PHMSA acknowledges that its proposed new fees providing cost recovery for its part 193, subpart B, LNG facility siting reviews will impose a new line item cost on affected applicants seeking FERC authorization to construct and operate certain LNG facilities. Pursuant to an August 2018 Memorandum of Understanding (MOU) between FERC and PHMSA, FERC agreed to reimburse PHMSA for direct costs that PHMSA incurred performing LNG facility siting reviews that are considered in FERC's authorization certificate application process. FERC and PHMSA subsequently entered into an interagency agreement whereby FERC reimbursed PHMSA for time spent by PHMSA staff to complete siting reviews for LNG facilities. The funds FERC used for those reimbursements were not passed along as a cost to applicants. The fees proposed herein will, therefore, be a new cost for affected applicants.

Since the August 2018 FERC/PHMSA MOU, PHMSA has on average completed seven siting reviews for LNG facility applications of any size per year, with a typical breakdown of labor required from PHMSA employees for large facilities (design and construction

¹⁴ Executive Order 12866 is available at 58 FR 51735 (Oct. 4, 1993); Executive Order 14094 is available at 88 FR 21879 (Apr. 6, 2023).

costs of \$2.5 billion or more) as laid out in the table below.¹⁵

TABLE 2—TYPICAL LABOR REQUIRED FROM PHMSA EMPLOYEES FOR LARGE LNG FACILITIES

Title	Pay grade + step	Estimated number of hours contributing to complete part 193 siting review from beginning to end for \$2.5 billion project	Hourly rate (assuming 2024 WDC, step 5 for each pay scale)
Deputy Associate Administrator	SES	5	\$107
Director	GS-15	10	89
Supervisory General Engineer	GS-14	68	76
General Engineer (Lead)	GS-14	420	76
General Engineer (Support)	GS-9	40	37
Technical Writer	GS-9	1	37
Attorney Advisor Manager	GS-15	1	89
Staff Attorney Advisor	GS-14	8	76

Total base salary of personnel for each review: \$41,000
Aggregate personnel costs for each review (assuming non-salary benefits make up 38% of employee compensation):¹⁶ \$65,000

¹⁵ Hourly rates based on step 5 for each GS level (per OPM's 2024 WDC pay scale) and 2024 maximum SES pay level. See <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>.
¹⁶ PHMSA uses BLS estimates for state and local government employee compensation as a proxy for federal government employee compensation (obtained from <https://www.bls.gov/news.release/pdf/ecec.pdf>, last accessed March 15, 2024). Wages are estimated to make up 62 percent of employee compensation, with non-wage benefits making up the remaining 38 percent. Equivalently, non-wage benefits are valued at approximately 61 percent of wages (1/0.62 = 1.61).

PHMSA calculates the cost of an average siting review to include approximately \$41,000 in wages, and an additional \$14,000 in non-wage benefits, for an average per siting review cost of \$65,000.¹⁷ PHMSA projects that, notwithstanding continued demand for LNG worldwide, the volume of its review of applications for new, large LNG facility projects of the sort that would be subject to the fees proposed herein will decrease going forward, given reduced interest in building new LNG facilities due to large-scale LNG export terminals that have already been built or authorized, and a wave of recently announced LNG export projects in other exporting countries.¹⁸ PHMSA has therefore conservatively estimated

that (1) the current average of seven reviews for facilities of any size per year would reduce to six over the next three years, then to five, and finally four per year over the remaining years within a 10-year forecast period; and (2) those reviews would be for large (\$2.5 billion or more design and construction costs) projects that would be subject to the cost recovery requirements proposed herein. Similarly, PHMSA expects that its own personnel costs in conducting part 193, subpart B, siting reviews for those facilities will be at or near its historical estimated average of \$65,000 per review throughout the analysis period as that value accounts for a range of LNG facility projects—some well in excess of, and some closer to, the \$2.5

billion monetary threshold PHMSA proposes in this NPRM.¹⁹
Given the reduced frequency of the required siting reviews and assuming the current average cost to remain static over the 10-year forecast period, the rule would result in an additional burden of approximately \$3.71 million over 10 years, as described in Table 3.
This is discounted to \$3.43 million using a two percent rate, and the annualized cost is \$381,899. Although these costs associated with directly itemized and billed LNG facility siting reviews are not substantial relative to the total project costs (\$2.5 billion or greater), these costs in this proposed rulemaking will create a new cost for affected applicants.

TABLE 3—TOTAL AND ANNUALIZED COSTS OF THE NPRM

Year	Number of siting reviews	Cost per review	Total costs	NPV at 2%
1	7	\$65,000	\$455,000	\$455,000
2	7	65,000	455,000	446,627
3	7	65,000	455,000	437,332
4	6	65,000	390,000	367,506
5	6	65,000	390,000	360,300
6	6	65,000	390,000	353,235

¹⁵ From September 2018 through October 2022, PHMSA performed siting reviews on a total of 38 active projects of any size.
¹⁷ PHMSA uses BLS estimates for state and local government employee compensation as a proxy for federal government employee compensation (obtained from <https://www.bls.gov/news.release/pdf/ecec.pdf>, last accessed March 15, 2024). Wages are estimated to make up 62 percent of employee compensation, with non-wage benefits making up the remaining 38 percent. Equivalently, non-wage benefits are valued at approximately 61 percent of wages (1/0.62 = 1.61).
¹⁸ See, e.g., Reuters, “IEA Says “Unprecedented” Supply Surge Could Lead to LNG Glut from 2025” (Oct. 24, 2023), <https://www.reuters.com/markets/commodities/iea-says-unprecedented-supply-surge-could-lead-lng-glut-2025-2023-10-24/>, and Reuters, “Qatar’s LNG Bigger LNG Expansion Could Squeeze Out United States, other LNG Rivals” (Feb. 27, 2024), <https://www.reuters.com/business/energy/qatars-new-lng-expansion-plans-squeeze-out-us-other-rivals-2024-02-27/>. PHMSA notes this projection is consistent with the relatively few U.S. LNG export terminals currently before, or anticipated by, FERC’s website. See *supra* note 18.

¹⁹ PHMSA acknowledges that it is also proposing miscellaneous clerical revisions to various existing provisions of part 190, subpart E (governing design safety reviews of jurisdictional pipeline facilities), but expects those amendments will entail only de minimis compliance costs for affected project applicants. PHMSA has also, for the purpose of this analysis, not estimated other, variable costs identified at § 190.409 that it would recover pursuant to this rulemaking because PHMSA’s personnel costs are the largest component (by far) of PHMSA’s total costs in performing part 193, subpart B, siting reviews.

TABLE 3—TOTAL AND ANNUALIZED COSTS OF THE NPRM—Continued

Year	Number of siting reviews	Cost per review	Total costs	NPV at 2%
7	5	65,000	325,000	288,591
8	5	65,000	325,000	282,932
9	4	65,000	260,000	221,908
10	4	65,000	260,000	217,556
Total	57	.....	3,705,000	3,430,437
Annualized Cost .....	.....	.....	.....	381,899

As a sensitivity analysis, alternative costs assuming a constant demand for

siting reviews per year are presented below in Table 4, as opposed to the

moderately decreased demand presented in Table 3 above.

TABLE 4—SENSITIVITY ANALYSIS: TOTAL AND ANNUALIZED COSTS OF THE NPRM

Year	Number of siting reviews	Cost per review	Total costs	NPV at 2%
1	7	\$65,000	\$455,000	\$455,000
2	7	65,000	455,000	446,078
3	7	65,000	455,000	437,332
4	7	65,000	455,000	428,757
5	7	65,000	455,000	420,350
6	7	65,000	455,000	412,108
7	7	65,000	455,000	404,027
8	7	65,000	455,000	396,105
9	7	65,000	455,000	388,338
10	7	65,000	455,000	380,724
Total	70	.....	4,550,000	4,168,818
Annualized Cost .....	.....	.....	.....	464,100

Under this scenario, the nominal cost over 10 years increases from \$3.71 million to \$4.55 million—discounted to \$4.17 million at two percent—from the original \$3.43 million. The annualized cost estimate increases from \$381,899 to \$464,100 under this alternative scenario.

In both of these scenarios, the total cost to industry over the next 10 years would be less than \$5 million. For comparison, PHMSA takes the value of a statistical life to be \$12.5 million,²⁰ meaning that prevention of even one fatality by avoiding diversion of limited PHMSA personnel resources from other regulatory oversight responsibilities over the next 10 years would cause the benefits of this rule to exceed the costs twice over. Similarly, when ranking injuries on the 6-Point Maximum Abbreviated Injury Scale (MAIS), a MAIS 5 “critical” injury is valued at approximately \$7.4 million,²¹ so preventing even one “critical” injury

over the next 10 years would cause the benefits of this rule to exceed the costs. While PHMSA is not able to estimate the benefits of this rule due to uncertainty about which projects would go unfunded in its absence, it believes the benefits of the rule would exceed the costs.

With respect to the anticipated benefits of the rulemaking, as discussed in section II above, PHMSA (absent a statutory change to increase the funds appropriated to the Liquefied Natural Gas Siting Account) would not be able to spend any collected fees for LNG facility siting reviews in excess of \$400,000 appropriated by Congress in the 2023 Act. However, PHMSA has been mandated to recover costs associated with LNG facility siting reviews, even if it does not yet have approval to spend the collected funds in excess of the \$400,000 appropriated by the 2023 Act. Thus, the potential safety benefits of this rule may not be fully realized until PHMSA is authorized by Congress to spend the fees it collects as they are received, or unless in future legislation Congress appropriates funds commensurate with fees collected pursuant to this rulemaking.

Lastly, PHMSA has considered and rejected alternatives to the fee recovery procedures proposed in this NPRM.

PHMSA notes that it lacks discretion to avoid establishing fees for cost recovery as proposed herein given that this rulemaking responds to a congressional mandate in section 103 of the PIPES Act of 2020 to establish such procedures. PHMSA also submits that other, alternative approaches for calculating and assessing such fees (*e.g.*, employing the negotiated Master Agreement approach used for pipeline facility design review cost recovery; assessing actual costs on completion of its LNG facility siting review; *etc.*) could involve considerable delay before PHMSA receives fees, thereby increasing the risk that PHMSA’s limited resources would be diverted from other critical regulatory oversight functions. In contrast, PHMSA expects its approach proposed in this NPRM appropriately balances its and projects applicants’ interests. An applicant’s payment of fees at initiation of each part 193, subpart B, LNG facility siting review will ensure the Agency has timely access to funds needed to perform that review without diversion of PHMSA’s limited resources from other regulatory oversight activities. Moreover, PHMSA’s proposed “true-up” mechanism at the conclusion of that review ensures it will be made whole by each applicant for any actual costs incurred conducting a siting

²⁰ Departmental Guidance on Valuation of a Statistical Life in Economic Analysis | US Department of Transportation.

²¹ DOT, “Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses” (Mar. 2021), <https://www.transportation.gov/sites/dot.gov/files/2021-03/DOT%20VSL%20Guidance%20-%202021%20Update.pdf>.

review for that applicant's LNG facility project. Lastly, the flat, up-front estimated fee PHMSA proposes to use for its estimated costs in performing each LNG facility siting review provides certainty for applicants in projecting costs associated with their FERC applications.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Flexibility Fairness Act of 1996 (5 U.S.C. 601 *et seq.*), generally requires federal agencies to prepare an initial regulatory flexibility analysis (IRFA) for a proposed rule subject to notice-and-comment rulemaking under the Administrative Procedures Act (5 U.S.C. 604(a)).²² Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking")²³ obliges agencies to establish procedures promoting compliance with the Regulatory Flexibility Act; DOT's implementing guidance is available on its website.²⁴

This NPRM was developed in accordance with Executive Order 13272 and DOT guidance to ensure compliance with the Regulatory Flexibility Act and provide appropriate consideration of the potential impacts of the rulemaking on small entities. The proposed fee structure and assessment methodology will be assessed only on large-scale new applications for LNG facility construction or expansion projects with design and construction costs totaling or exceeding \$2.5 billion. Since the fee structure will be assessed only on large-scale new projects, PHMSA does not expect small entities to be capable of investing in projects of this size, and thus does not expect the rule will have a significant economic impact on a substantial number of small entities.

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

PHMSA analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments")²⁵ and DOT Order 5301.1A ("Department of Transportation Tribal Consultation

Policy and Procedures"). Executive Order 13175 requires agencies to ensure meaningful and timely input from tribal government representatives in developing rules that significantly or uniquely affect tribal communities by imposing "substantial direct compliance costs" or "substantial direct effects" on such communities, or the relationship and distribution of power between the Federal Government and tribes.

PHMSA assessed the impact of the proposed rule and does not expect it will significantly or uniquely affect tribal communities or Native American tribal governments. The proposed rule's regulatory amendments are facially neutral and will have broad, national scope. PHMSA, therefore, does not expect this rule to significantly or uniquely affect tribal communities, much less impose substantial compliance costs on Native American tribal governments or mandate tribal action. Therefore, PHMSA concludes that the funding and consultation requirements of Executive Order 13175 and DOT Order 5301.1A do not apply.

E. Paperwork Reduction Act

Pursuant to 5 CFR 1320.8(d), PHMSA is required to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests.

PHMSA proposes requiring LNG facility operators submitting applications for large (\$2.5 billion or more) new or expansion projects at their facilities to notify PHMSA officials of those applications; thereafter, affected entities would need to pay PHMSA fees for PHMSA's costs in performing siting reviews pursuant to part 193, subpart B. PHMSA also proposes clarifying revisions to longstanding procedures at part 190, subpart E, for operator notification and assessment of fees for recovery of its costs in performing design safety reviews of jurisdictional pipeline facilities. PHMSA plans to create a new information collection process to cover these notification requirements for affected facility operators. PHMSA will request a new Control Number from OMB for this information collection. PHMSA will submit these information collection requests to OMB for approval based on the proposed requirements in this rule. The information collection is contained in the pipeline safety regulations, 49 CFR parts 190–199. The following information is provided for each information collection: (1) title of the information collection; (2) OMB control number; (3) current expiration date; (4) type of request; (5) abstract of the

information collection activity; (6) description of affected public; (7) estimate of total annual reporting and recordkeeping burden; and (8) frequency of collection. The information collection burden is estimated as follows:

1. *Title:* Notifications for Siting and Design Reviews.

OMB Control Number: Will request from OMB.

Current Expiration Date: TBD.

Abstract: This mandatory information collection covers the burden for pipeline facility owners and/or operators to notify PHMSA, according to 49 CFR 190.405, and provide design specifications, construction plans and procedures, project schedule, and related materials of their prospective project. Pipeline facility owners and operators must also notify PHMSA when costs associated with the design and construction of new facilities for which PHMSA conducts siting reviews exceed \$2.5 billion.

Affected Public: Jurisdictional pipeline facility operators applying for authorization to construct and operate new or expanded facilities for which PHMSA conducts facility design safety reviews; pipeline facility owners and operators with new facilities with design and construction costs exceeding \$2.5 billion for which PHMSA conducts siting reviews.

Annual Reporting Burden:

Total Annual Responses: 14.

Total Annual Burden Hours: 14 hours.

Frequency of Collection: On occasion.

Requests for a copy of this information collection should be directed to Angela Hill, Office of Pipeline Safety (PHP-30), Pipeline Hazardous Materials Safety Administration (PHMSA), 2nd Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, 202–366–4595.

Comments are invited on:

(a) The need for the proposed collection of information 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 revised 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;

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic,

²² Agencies are not required to conduct an IRFA if the head of the agency certifies that the proposed rule will not have a significant impact on a substantial number of small entities. 5 U.S.C. 605.

²³ 67 FR 53461 (Aug. 16, 2002).

²⁴ DOT, "Rulemaking Requirements Concerning Small Entities", <https://www.transportation.gov/regulations/rulemaking-requirements-concerning-small-entities> (last updated May 18, 2012).

²⁵ 65 FR 67249 (Nov. 6, 2000).

mechanical, or other technological collection techniques; and

(e) Ways the collection of this information is beneficial or not beneficial to public safety.

Send comments directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the Department of Transportation, 725 17th Street NW, Washington, DC 20503. Comments should be submitted on or prior to October 18, 2024.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires agencies to assess the effects of federal regulatory actions on state, local, and tribal governments, and the private sector. For any NPRM or final rule that includes a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate of \$100 million or more (in 1996 dollars) in any given year, the agency must prepare, amongst other things, a written statement that qualitatively and quantitatively assesses the costs and benefits of the federal mandate. The proposed rule pertains to operators reimbursing PHMSA for the cost of conducting siting reviews of LNG facility project applications where the design and construction costs total \$2.5 billion or more. It only involves such applicants and PHMSA, and does not involve or pertain to state, local, and tribal governments. Further, as discussed in section V.B above, PHMSA does not anticipate the proposed rule will impose enforceable duties on state, local, and tribal governments or on the private sector of \$100 million or more (adjusted annually for inflation) in any one year. Therefore, the requirement to prepare a statement pursuant to UMRA does not apply.

G. National Environmental Policy Act and Environmental Justice

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*),²⁶ requires federal agencies to consider the environmental impacts of their actions in the decision-

making process. NEPA requires federal agencies to assess the environmental effects of proposed federal actions prior to making decisions and involve the public in the decision-making process. Agencies must prepare an environmental assessment (EA) for a proposed action for which a categorical exclusion is not applicable, and is either unlikely to have significant effects or when significance of the action is unknown. In accordance with these requirements, an EA must briefly discuss the need for the action; the alternatives considered; the environmental impacts of the proposed action and alternatives; and a listing of the agencies and persons consulted (40 CFR 1508.9(b)). If, after reviewing public comments in response to the draft EA (DEA), an agency determines that a proposed rule will not have a significant impact on the human or natural environment, it can conclude the NEPA analysis with a finding of no significant impact (FONSI).

1. Purpose and Need

The purpose of the proposed rule is to amend existing cost recovery regulations at part 190, subpart E, to establish procedures for assessment and recovery of its necessary expenses in performing 49 CFR part 193, subpart B, siting reviews of applications for new or expanded liquefied natural gas (LNG) facilities with project design and construction costs totaling at least \$2.5 billion, as mandated by the PIPES Act of 2020 (Pub. L. 116–260). The codification of these procedures within regulations is a prerequisite for PHMSA accessing funds appropriated by Congress for such reviews in the 2023 Act and any future appropriations legislation. The proposed rule is needed as PHMSA's access to funds recovering the costs of its part 193, subpart B, siting reviews is critically important given the increasing strain placed on its limited resources by such reviews. Many of the same PHMSA personnel performing part 193, subpart B, siting reviews are also responsible for other regulatory oversight activities (*e.g.*, design safety reviews, inspections, enforcement, guidance and regulation development,

etc.) related to LNG facilities and other jurisdictional pipeline facilities. This need has become increasingly pressing in recent years, as PHMSA has had to perform a large number of part 193, subpart B, siting reviews.

2. Alternatives Considered

No Action Alternative:

The no action alternative would be to not make any changes to the current regulatory requirements. Existing regulations in 49 CFR part 190, subpart E, prescribe a fee structure and assessment methodology for recovering costs from design safety reviews of applications to FERC for new or expanded gas, LNG, hazardous liquid, and carbon dioxide pipeline facility projects consisting of new or expanded LNG facilities with project design and construction costs totaling at least \$2.5 billion. In this case, PHMSA would not collect fees directly from operators of LNG facilities to recover the necessary expenses incurred during part 193, subpart B, reviews. Additionally, the statutory mandate that Congress added in section 103 of the PIPES Act of 2020 would not be fulfilled.

Proposed Action Alternative (Proposed Rule):

This alternative implements the mandate in the PIPES Act of 2020 to amend the pipeline safety regulations (49 CFR parts 190–199) to prescribe a fee assessment methodology for PHMSA to recover its costs in performing 49 CFR 193, subpart B, siting reviews of applications for new or expanded LNG facilities with project design and construction costs totaling at least \$2.5 billion. PHMSA is proposing an up-front fee for estimated costs, derived from the personnel costs associated with historical work effort by PHMSA personnel involved in performing siting reviews for LNG facility project applications with design and construction costs of \$2.5 billion or more, coupled with “true-up” payments to PHMSA at conclusion of that review should PHMSA's costs exceed the fee paid up-front based on PHMSA's estimated costs. The proposed amendments are summarized below.

Section	Subject	Proposed changes
Part 190, Subpart E	Title	Revise heading to: “Cost Recovery for Design Reviews and LNG Siting Reviews.”
190.401	Scope	Redesignate the current regulatory text as paragraph (a), and add a new paragraph (b) to codify that PHMSA can recover its costs in conducting LNG facility siting reviews under part 193, subpart B.

²⁶ Also at 40 CFR parts 1501 to 1508.

Section	Subject	Proposed changes
190.403	Applicability	Introduce a new § 190.403(b) mirroring a statutory prohibition in the PIPES Act of 2020 barring PHMSA from collecting fees under multiple statutory authorities and their implementing regulations for the same LNG facility siting reviews. Add a new paragraph (d) identifying application materials PHMSA will typically review in connection with its part 193, subpart B, LNG facility siting reviews.
190.405	Notification	Redesignate existing text of § 190.405 as a new paragraph (a), and amend text to accommodate expanded application of those notification requirements to LNG facility siting reviews under part 193, subpart B. Add new paragraph (b) reserving discretion to delay review of submitted materials for LNG facility siting reviews until payment in full of the fee of the estimated costs for such review. Add new paragraph (c) requiring LNG facility applicants submit notification of any material changes to documentation submitted to PHMSA pursuant to § 190.405.
190.407	Master Agreement	Clarify revisions to the prefatory language of these provisions to distinguish between procedures for cost recovery in connection with design safety reviews (which will involve applicants entering into Master Agreements for such cost recovery), and part 193, subpart B, LNG facility siting reviews (which will not require applicants to enter into Master Agreements for such cost recovery).
190.409	Fee Structure	Revise introductory text to codify the basis of the fees PHMSA will charge to recover the costs for LNG siting reviews. Remove definitions of “necessary for” and all uses of the phrase since it has not clarified regulations as PHMSA intended.
190.411	Procedures for Billing and Payment of Fees.	Redesignate current prefatory text governing fees for a cost recovery in connection with facility design safety reviews as a new paragraph (a). Existing paragraphs (a)–(d) will then be redesignated as paragraphs (1)–(4) within new paragraph (a). Introduce a new paragraph (b) establishing the procedural machinery for billing and payment of fees for estimated costs for its LNG facility siting reviews before PHMSA initiates those reviews, as well as subsequent adjustment of those fees based on PHMSA’s actual costs for that review. Redesignate and clarify the disclaimer at existing paragraph (e) regarding PHMSA’s discretion to exercise its authorities under law to protect public safety and the environment as a new paragraph (c).

3. Affected Environment

Because the proposed rule only describes modifications to the cost recovery process, there would be no effect on environmental resources. Therefore, the affected environment does not include any environmental resources and only includes the existing regulatory framework related to cost recovery regulations at part 190, subpart E.

Existing regulations in 49 CFR part 190, subpart E, prescribe a fee structure and assessment methodology for recovering costs from design safety reviews of applications to FERC for new or expanded gas, LNG, hazardous liquid, and carbon dioxide pipeline facility projects consisting of new or expanded LNG facilities with project design and construction costs totaling at least \$2.5 billion.

PHMSA is also currently responsible for the review of LNG facility siting; that review is an input to FERC’s evaluation of applications for authorization to construct and operate a new LNG facility (or an expansion of an existing LNG facility). During the LNG facility siting review, PHMSA assesses the siting packages prepared by the applicants for new or expanded LNG facility projects for compliance with siting regulations at part 193, subpart B.

4. Environmental Impacts of Alternatives

No Action Alternative:

The No Action Alternative would have no new impact on the natural or human environment as the status quo would remain in place. PHMSA would continue to recover costs from design safety reviews of applications for new or expanded gas, LNG, hazardous liquid, and carbon dioxide pipeline facility projects consisting of new or expanded LNG facilities with project design and construction costs totaling at least \$2.5 billion. PHMSA would not collect fees directly from operators of LNG facilities to recover the necessary expenses incurred during part 193, subpart B, reviews, and the current and ever-increasing strain placed on PHMSA’s limited resources by such reviews would not be alleviated.

The No Action Alternative does not include any activities, such as ground disturbing activities, building or landscape alterations, construction or installation of any new aboveground components, or the introduction of visual, auditory, or atmospheric elements. Therefore, the proposed rule would not adversely affect, either temporarily or permanently, historic resources and/or cultural resources, ecological resources, wetlands and waterways, or farmland.

Proposed Action Alternative (Proposed Rule):

PHMSA recognizes the difficulty in quantifying any environmental impact of prescribing a fee assessment methodology for PHMSA to recover its costs in performing 49 CFR 193, subpart B, siting reviews of applications for new or expanded LNG facilities with project design and construction costs totaling at least \$2.5 billion. The Proposed Action Alternative would have no adverse impact on the natural or human environment because the changes proposed would not adversely impact the process of the part 193, subpart B, reviews, nor would it affect the siting, construction, operations, or other management practices of LNG facilities. The proposed rule would only affect the cost recovery process itself.

That said, PHMSA notes that its access to funds recovering the costs of its part 193, subpart B, siting reviews is critically important given the increasing strain placed on its limited resources by such reviews. Part 193, subpart B, covers siting requirements of LNG facilities—including thermal radiation protection, flammable vapor-gas dispersion protection, and wind forces—to ensure LNG facilities operate at approved national safety standards. By directly recovering costs, PHMSA could relieve some of the strain on its limited personnel resources, allowing

for not only more efficient and high-quality reviews, but also ensuring resources would not be diverted from other critical regulatory oversight functions that advance the safety of gas, hazardous liquid, LNG, and carbon dioxide pipeline facilities. However, because it is not clear which activities would go unfunded due to the costs of conducting LNG facility siting reviews, PHMSA is unable to quantify those benefits with a meaningful degree of certainty.

The Proposed Action Alternative (proposed rule) would not include any activities such as ground disturbing activities; building or landscape alterations; construction or installation of any new aboveground or belowground components; or the introduction of visual, auditory, or atmospheric elements. Therefore, the proposed rule would not adversely affect, either temporarily or permanently historic resources and/or cultural resources, ecological resources, wetlands and waterways, or farmland. Further, because this alternative only includes procedures related to cost recovery, this alternative would have no direct or indirect effect on greenhouse gas emissions.

PHMSA's proposed fees for LNG facility part 193, subpart B, siting reviews would be a new line-item cost for certain applicants. Given the reduced frequency of the required siting reviews and assuming the work effort remains static over the 10-year forecast period, the rule would result in an additional burden of approximately \$3.48 million over 10 years, as described in Section V.B. of this NPRM. This is discounted to \$3.22 million using a two percent rate, and the annualized cost is \$358,589. However, PHMSA's projections for the fees paid by applicants for each LNG facility siting review would be trivial (ca. 0.0024 percent) compared to the minimum design and construction costs for pertinent projects. Further, PHMSA has designed its proposed approach to imposing fees in a way that maximizes regulatory certainty for affected entities. PHMSA's timely access to adequate financial resources to perform part 193, subpart B, siting reviews as those reviews initiate also benefits project applicants by facilitating timely completion of such reviews. PHMSA expects these new costs would only be shouldered by a small number of entities. Consistent with the threshold identified in 49 U.S.C. 60303, the NPRM proposes fees for cost recovery for only very large LNG facility new construction or expansion projects—specifically, fees would only be assessed for LNG facility

siting reviews for project applications with design and construction costs totaling or exceeding \$2.5 billion. And PHMSA expects continued, although decreased, demand for such reviews during the analysis period.

5. Environmental Justice

Executive Order 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”²⁷), directs federal agencies to take appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal actions on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law. DOT Order 5610.2C (“U.S. Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”) establishes departmental procedures for effectuating Executive Order 12898 promoting the principles of environmental justice through full consideration of environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities—including PHMSA rulemaking.

Executive Order 14096 (“Revitalizing Our Nation’s Commitment to Environmental Justice for All”²⁸) was issued on April 21, 2023. Executive Order 14096 on environmental justice does not rescind Executive Order 12898, which has been in effect since February 11, 1994, and is currently implemented through DOT Order 5610.2C. This implementation will continue until further guidance is provided regarding the implementation of the new Executive Order 14096 on environmental justice.

Through the NEPA process, PHMSA has evaluated this NPRM under DOT Order 5610.2C and Executive Order 12898, and has preliminarily determined it would not cause disproportionately high and adverse human health and environmental effects on minority and low-income populations. The proposed rule would not result in any adverse environmental or health impact on minority populations and low-income populations. As explained in this DEA above, the proposed action would not impact the technical requirements associated with the siting requirements described at part 193, subpart B. The Proposed Action Alternative only affects the cost recovery process, which would

result in no ground disturbance, building or landscape alterations, or construction activities of any kind. Therefore, no impacts to environmental justice populations would occur. This preliminary finding is consistent with Executive Order 14096 by achieving several goals, including continuing to deepen the Biden-Harris Administration’s whole of government approach to environmental justice and to better protect overburdened communities from pollution and environmental harms.

6. Public Involvement

Public involvement is a key component of the NEPA process. This DEA and the proposed rule will be released for public review and comment in docket PHMSA–2022–0118. To access the docket, which contains background documents and any comments that PHMSA has received, go to <https://www.regulations.gov>. Follow the online instructions for accessing the docket. Alternatively, you may review the documents in person at DOT’s Docket Management Office at the address listed below.

E-Gov Web: <http://www.regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

Mail: Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: DOT Docket Management System: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9:00 a.m. and 5:00 p.m. EST, Monday–Friday, except federal holidays.

7. Agencies and Persons Consulted

No other agencies or persons were consulted during development of this Draft Environmental Assessment.

8. List of Preparers and Reviewers

Preparers: Lydia Wang, PHMSA
Reviewers: Sandy Hoover, Volpe Center

9. Proposed Finding of No Significant Impact

PHMSA is soliciting comments on the environmental and safety impacts of the proposed rule and on this DEA. PHMSA will respond to the comments received during the comment period and will address comments in the final environmental assessment (FEA). If a determination of no significant impact is made, PHMSA will prepare a FONSI, which would be attached to the FEA

²⁷ 59 FR 7629 (Feb. 16, 1994).

²⁸ 88 FR 25251.

and would conclude the NEPA process for this rulemaking.

G. Executive Order 13132: Federalism

PHMSA has analyzed this NPRM in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”)²⁹ and the Presidential Memorandum³⁰ titled “Preemption.” Executive Order 13132 requires agencies to ensure meaningful and timely input by state and local officials in the development of regulatory policies that may 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.”

States are generally prohibited by 49 U.S.C. 60104(c) from regulating the safety of interstate pipelines. States that have submitted a current certification under 49 U.S.C. 60105(a) and that adopt the minimum federal pipeline safety requirements may regulate intrastate pipelines within the state. Those states may also adopt additional or more stringent safety standards for intrastate pipelines if those standards are compatible with the federal requirements. A state may also regulate an intrastate pipeline facility that PHMSA does not regulate.

In this instance, the proposed rule would not impose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, PHMSA has determined that the consultation and funding requirements of Executive Order 13132 do not apply.

H. Executive Order 13211: Significant Energy Actions

Executive Order 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”)³¹ requires federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” Executive Order 13211 defines a “significant energy action” as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation that (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order; and (ii) is likely to have a significant adverse

effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs (OIRA) as a significant energy action.

This proposed rule is not anticipated to be a “significant energy action” under Executive Order 13211. It is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, OIRA has not designated this proposed rule as a significant energy action.

I. Privacy Act Statement

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 <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 Federal Docket Management System), which can be reviewed at <https://www.dot.gov/privacy>.

J. Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

K. Executive Order 13609 and International Trade Analysis

Executive Order 13609 (“Promoting International Regulatory Cooperation”)³² requires agencies to consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, the Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits federal agencies from establishing any

standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, federal agencies may participate in the establishment of international standards so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they serve as the basis for U.S. standards.

PHMSA participates in the establishment of international standards to protect the safety of the American public. PHMSA assessed the effects of the proposed rule and determined that it will not cause unnecessary obstacles to foreign trade.

L. Cybersecurity and Executive Order 14028

Executive Order 14028 (“Improving the Nation’s Cybersecurity”)³³ directed the Federal Government to improve its efforts to identify, deter, and respond to “persistent and increasingly sophisticated malicious cyber campaigns.” In keeping with these policies and directives, PHMSA has assessed the effects of this NPRM to determine what impact the proposed regulatory amendments may have on cybersecurity risks for LNG facilities, and has preliminarily determined that this NPRM will not materially affect the cybersecurity risk profile for those facilities.

This proposed rule will establish fee structures and assessment methodology for recovering costs associated with siting reviews of certain new LNG facility project applications. Those reviews occur in the status quo; this rulemaking merely formalizes notification practices and establishes procedures for calculation and forwarding of (estimated and actual) fees to recover PHMSA’s costs in performing those reviews. PHMSA envisions that entities paying the fees proposed herein will have the option of doing so by either check or the Federal Government’s centralized fee payment website (<https://pay.gov>). PHMSA does not expect, therefore, that the NPRM’s proposed regulatory amendments will entail the electronic transfer of sensitive or confidential business information of the sort that could materially affect applicants’ cybersecurity risk profiles.

²⁹ 64 FR 43255 (Aug. 10, 1999).

³⁰ 74 FR 24693 (May 22, 2009).

³¹ 66 FR 28355 (May 22, 2001).

³² 77 FR 26413 (May 4, 2012).

³³ 86 FR 26633 (May 17, 2021).

M. Severability

The purpose of this proposed rule is to operate holistically and, in concert with existing part 190, subpart E, requirements, provide for cost recovery of part 193, subpart B, siting reviews for certain LNG facility project applications. However, PHMSA recognizes that certain provisions focus on unique topics. Therefore, PHMSA preliminarily finds that the various provisions of this proposed rule are severable and able to operate functionally if severed from each other. In the event a court were to invalidate one or more of the unique provisions of any final rule issued in this proceeding, the remaining provisions should stand, thus allowing their continued effect. PHMSA seeks comment on which portions of this rule should or should not be severable.

List of Subjects in 49 CFR Part 190

Cost recovery, Liquefied natural gas.

For the reasons provided in the preamble, PHMSA proposes to amend 49 CFR part 190 as follows:

PART 190—PIPELINE SAFETY ENFORCEMENT AND REGULATORY PROCEDURES

- 1. The authority citation for part 190 continues to read as follows:

Authority: 33 U.S.C. 1321(b); 49 U.S.C. 60101 *et seq.*

- 2. Revise the subpart heading of subpart E to read as follows:

Subpart E—Cost Recovery for Design Reviews and LNG Siting Reviews

- 3. Revise § 190.401 to read as follows:

§ 190.401 Scope.

(a) If PHMSA conducts a facility design and/or construction safety review or inspection in connection with a proposal to construct, expand, or operate a (gas, hazardous liquid, carbon dioxide, or a liquefied natural gas) pipeline facility that meets the applicability requirements in § 190.403, PHMSA may require the applicant proposing the project to pay the costs incurred by PHMSA relating to such review, including the cost of design and construction safety reviews or inspections.

(b) If PHMSA conducts a siting review in connection with a proposal to construct, expand, or operate an LNG facility that meets the applicability requirements in § 190.403, PHMSA will require the applicant proposing the project to pay the costs incurred by PHMSA relating to such review,

including the cost of LNG facility siting reviews or related inspections.

- 4. Amend § 190.403 by revising paragraphs (a)(1)(ii), (b), (c), and adding paragraphs a(1)(iii) and (d) to read as follows:

§ 190.403 Applicability.

* * * * *

(a) * * *

(1) * * *

(ii) A good faith estimate developed by the applicant proposing a gas (including LNG), hazardous liquid, or carbon dioxide pipeline facility and submitted to the Associate Administrator.

(iii) The good faith estimates for design and construction costs provided for in this section must include all the applicable cost items contained in the Federal Energy Regulatory Commission application referenced in § 190.403(a)(1)(i) for a gas facility. In addition, an applicant must take into account all survey, design, material, permitting, right-of-way acquisition, construction, testing, commissioning, start-up, construction financing, environmental protection, inspection, material transportation, sales tax, project contingency, and all other applicable costs, including all segments, facilities, and multi-year phases of the project;

* * * * *

(b) The Associate Administrator may collect neither (i) separate facility design safety review fees under both this section and 49 U.S.C. 60301 for the same design safety review, nor (ii) separate LNG facility siting review fees under either this section, 49 U.S.C. 60117(o), or 49 U.S.C. 60301(b) for the same LNG facility siting review.

(c) For facility design safety reviews, the Associate Administrator, after receipt of the design specifications, construction plans and procedures, project schedule, and related materials (including estimated project design and construction costs), determines if cost recovery is necessary. The Associate Administrator's determination is based on the amount of PHMSA resources needed to ensure safety and environmental protection.

(d) For LNG facility siting reviews, the Associate Administrator, after receipt of the design specifications, siting specifications, construction plans and procedures, project schedule, and related materials (including estimated project design and construction costs), shall provide the applicant PHMSA's estimated costs for each review. The Associate Administrator's estimate will be based on the amount of PHMSA resources needed to ensure safety and

environmental protection, and will be calculated pursuant to § 190.411(b).

- 5. Revise § 190.405 to read as follows:

§ 190.405 Notification.

(a) For new pipeline facility project application for which PHMSA will conduct a facility design safety review or LNG facility siting review, the applicant proposing the project must notify PHMSA and provide the design specifications, construction plans and procedures, siting specifications, project schedule, and related materials (including estimated project design and construction costs) as applicable, at least 120 days prior to the commencement of any of the following activities: Route surveys for construction, material manufacturing, offsite facility fabrications, construction equipment move-in activities, onsite or offsite fabrications, personnel support facility construction, and any offsite or onsite facility construction. To the maximum extent practicable, but not later than 90 days after receiving such design specifications, construction plans and procedures, siting packages, and related materials, PHMSA will provide written comments, feedback, and guidance on the project.

(b) For LNG facility siting reviews, PHMSA review will not commence until receipt of payment in full of the estimated costs of each review provided by the Associate Administrator as provided in this subpart.

(c) Applicants for LNG facility projects for which PHMSA is performing siting reviews must promptly notify PHMSA of any material changes to the application or estimated design and construction costs that would cause the project to meet or exceed the monetary threshold specified in § 190.403(a). Failure to do so could result in PHMSA requiring the operator to resubmit or revise materials provided for PHMSA's review.

- 6. Revise § 190.407 to read as follows:

§ 190.407 Master Agreement.

For facility design safety reviews for which the Associate Administrator has determined cost recovery is necessary, PHMSA and the applicant will enter into an agreement within 60 days after PHMSA receives notification from the applicant provided in § 190.405, outlining PHMSA's recovery of the costs associated with that review.

(a) A Master Agreement, at a minimum, includes:

- (1) Itemized list of costs;
- (2) Statement of the scope of work for conducting the facility design safety review and an estimated total cost;

- (3) Description of the method of periodic billing, payment, auditing of cost recovery fees, return of any unused fees collected;

(4) Minimum account balance which the applicant must maintain with PHMSA at all times;

(5) Provisions for reconciling differences between total amount billed and the final cost of the design review, including provisions for returning any excess payments to the applicant at the conclusion of the project;

(6) Point of contact for both PHMSA and the applicant;

(7) Provisions for terminating the agreement; and

(8) A project reimbursement cost schedule based upon the project timing and scope.

■ 7. Revise and republish § 190.409 to read as follows:

§ 190.409 Fee structure.

The fee charged is based on, as applicable, the direct costs that PHMSA incurs in conducting the facility design safety review (including construction review and inspections) or LNG facility siting review (including field verification and inspections).

(a) Costs qualifying for cost recovery include, but are not limited to—

(1) Personnel costs;

(2) Travel, lodging, and subsistence related to the review;

(3) Vehicle mileage;
- (4) Other direct services, materials, and supplies; and

(5) Other direct costs as may be specified with advanced notice.

(b) [Reserved].

■ 8. Amend § 190.411 by revising paragraphs (a), (b), and (c) to read as follows:

§ 190.411 Procedures for billing and payment of fee.

* * * * *

(a) For Facility Design Safety Reviews:

(1) PHMSA bills an applicant for estimated design safety review fees as specified in the Master Agreement.

(2) PHMSA bills an applicant for estimated design safety review cost recovery fees as specified in the Master Agreement, but the applicant will not be billed more frequently than quarterly.

(A) PHMSA will itemize design safety review bills in sufficient detail to allow independent verification of calculations.

(B) [Reserved]

(3) PHMSA will monitor the applicant's account balance. Should the account balance fall below the required minimum balance specified in the Master Agreement, PHMSA may request at any time the applicant submit payment within 30 days to maintain the minimum balance.

(4) PHMSA will provide an updated estimate of costs to the applicant on request and when the project is completed.
- (5) Payment of design safety review fees is due within 30 days of issuance of a bill for the fees. If payment is not made within 30 days, PHMSA may charge an annual rate of interest (as set by the Department of Treasury's Statutory Debt Collection Authorities) on any outstanding debt, as specified in the Master Agreement.

(b) For each LNG siting review:

(1) PHMSA will, as soon as practicable following notification pursuant to § 190.405, provide a bill for estimated LNG facility siting review costs PHMSA will incur in performing each siting review. That estimated cost will be the sum (rounded to the nearest thousand) of the products of (i) the hours historically spent by PHMSA Senior Executive Service and General Schedule personnel identified in the table below in performing those reviews for LNG facility projects meeting or exceeding the monetary threshold at § 190.403(a)(1); and (ii) the hourly rates of those personnel calculated from the Office of Personnel Management Annual Salary Tables for Senior Executive Service and General Schedule employees in the Washington/ Baltimore/Arlington area effective as of the date of the invoice, each adjusted to account for non-salary benefits which are estimated to make up 38 percent of total personnel costs:³⁴

Title	Pay grade (step)	Hours
Deputy Associate Administrator	SES-Max	5
Director	GS-15(5)	10
Supervisory General Engineer	GS-14(5)	68
General Engineer (Lead)	GS-14(5)	420
General Engineer (Support)	GS-9(5)	40
Technical Writer	GS-9(5)	1
Attorney Advisor Manager	GS-15(5)	1
Staff Attorney Advisor	GS-14(5)	8

Payment is due upon receipt of the bill for the estimated costs specified. PHMSA review will not commence until receipt of payment in full.

(2) If actual costs identified in § 190.409 exceed the estimated costs paid to PHMSA by the operator pursuant to the above paragraph,

PHMSA will, at the conclusion of each review (but before PHMSA issues a determination regarding compliance with part 193, subpart B, siting requirements) notify and provide the applicant an itemized bill of the actual costs owed. The operator must pay to PHMSA the difference between the estimated costs and actual costs upon receipt of the itemized bill of actual costs. PHMSA may withhold its determination regarding compliance with part 193, subpart B, siting requirements until receipt of such payment.

(c) Payment of the review fees as provided in this subpart shall not

obligate or prevent PHMSA from exercising its authority to take actions permitted by law to protect public safety and the environment in response to its review of materials or inspections conducted within its facility design safety or part 193, subpart B, LNG facility siting reviews.

* * * * *

Issued in Washington, DC, on August 8, 2024, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,
Associate Administrator for Pipeline Safety.

[FR Doc. 2024–18138 Filed 8–16–24; 8:45 am]

BILLING CODE 4910–60–P

³⁴ PHMSA uses BLS estimates for state and local government employee compensation as a proxy for federal government employee compensation (obtained from <https://www.bls.gov/news.release/pdf/eccec.pdf>, last accessed March 15, 2024). Wages are estimated to make up 62 percent of employee compensation, with non-wage benefits making up the remaining 38 percent. Equivalently, non-wage benefits are valued at approximately 61 percent of wages (1/0.62 = 1.61).

Notices

Federal Register

Vol. 89, No. 160

Monday, August 19, 2024

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and approval 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 these information collections are best assured of having their full effect if received by September 18, 2024. 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.

Agricultural Marketing Service

Title: Laboratory Approval Programs.
OMB Control Number: 0581–0251.

Summary of Collection: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), The Agricultural Marketing Service (AMS) administers programs that create domestic and international marketing opportunities for U.S. producers of food, fiber, and specialty crops. AMS also provides the agricultural industry with valuable services to ensure the quality and availability of wholesome food for consumers across the country and around the world. AMS' Science & Technology Program (S&T) provides scientific, certification and analytical services to the agricultural community to improve the quality, wholesomeness, and marketing of agricultural products domestically and internationally. S&T provides support to USDA Agencies, Federal and State agencies, and private sector food and agricultural industries.

Need and Use of the Information: This information can be provided on documentation from the applicant or by using ST–2 or ST–3, provided by NSL. Each sample must be identified with the name of applicant, billing information, product type (sample description), lot number of production date, analyses desired, and any other information which is required by the applicant to be included on the certificate/report. The information is used to perform chemical, microbiological, and bio-molecular analyses on food and agricultural commodities and provide an analytical certificate/report of the results.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 3,620.

Frequency of Responses: Reporting; Monthly; On occasion.

Total Burden Hours: 2,025.

Agricultural Marketing Service

Title: Generic Information Collection and Clearance of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0581–0269.

Summary of Collection: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. Improving Agricultural Marketing

Service (AMS) programs requires ongoing assessment of service delivery, by which we mean systematic review of the operation of a program compared to a set of explicit or implicit standards, as a means of contributing to the continuous improvement of the program.

Need and Use of the Information: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between AMS and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be

eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Description of Respondents: Farms; Business or other for-profit; Not-for-profit Institutions and State, Local or Tribal Government.

Number of Respondents: 100,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 50,000.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–18505 Filed 8–16–24; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 18, 2024 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 Housing Service

Title: 7 CFR 1927–B, “Real Estate Title Clearance and Loan Closing”.

OMB Control Number: 0575–0147.

Summary of Collection: The Rural Housing Service (RHS) is the credit agency for rural housing and community development within the Rural Development mission area of the United States Department of Agriculture. This regulation prescribes the policies and responsibilities including the collection and use of information necessary to complete real estate title clearance and loan closing of Rural Housing (RH) loans. Section 501 of title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings, farm buildings, and/or related facilities to provide decent, safe, and sanitary living conditions and adequate farm buildings and other structures in rural areas. The secretary is authorized to prescribe regulations to ensure that these loans, made with Federal funds, are legally secured.

Need and Use of the Information: The approved attorney/title company (closing agent) and the field office staff collect the required information. Forms and or guidelines are provided to assist in the collection, certification and submission of this information. Most of the forms collect information that is standard in the industry. If the information is collected less frequently, the agency would not obtain the proper security position on the properties being taken as security and would have no evidence that the closing agents and agency meet the requirements of this regulations.

Description of Respondents: Individuals or households; Business or other for-profit, Not-for-profit institutions; Farms.

Number of Respondents: 12,285.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,316.

Rural Housing Service

Title: 7 CFR 1902–A, Supervised Bank Accounts.

OMB Control Number: 0575–0158.

Summary of Collection: 7 CFR 1902–A, Supervised Bank Accounts (SBA), prescribes the policies and procedures for disbursing loan and grant funds, establishing and closing supervised accounts, and placing Multi-Family housing reserve accounts in supervised accounts. The Rural Business Service

extends financial assistance to applicants that do not qualify for loans under commercial rates and terms. The Rural Housing Service (RHS) is the credit agency for agriculture and rural development in USDA. Supervised accounts are accounts with a financial institution in the names of a borrower and the United States Government, represented by Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, (Agency). Section 339 of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1989 and section 510 of the Housing Act of 1949, as amended, (42 U.S.C. 1480) is the legislative authorities requiring the use of supervised accounts.

Need and Use of the Information: The agency's state and field offices will collect information from borrowers and financial institutions. The Agency use SBA as a mechanism to (1) ensure correct disbursement and expenditure of all funds designated for a project; (2) help a borrower properly manage its financial affairs; (3) ensure that the Government's security is protected adequately from fraud, waste and abuse. The consequence to Federal program and policy activities if the collection of information was not conducted would be detrimental to both the Government and to borrowers.

Description of Respondents: Business or other for-profit.

Number of Respondents: 13,052.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4,781.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–18506 Filed 8–16–24; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2024–0031]

Notice of Request for Approval of an Information Collection; National Animal Health Monitoring System; Data Security Requirements for Accessing Confidential Data

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 (APHIS')

intention to request approval of a new information collection associated with the National Animal Health Monitoring System's (NAHMS') data security requirements when providing access to confidential data. NAHMS' data security agreements and other paperwork along with the corresponding security protocols allow NAHMS to maintain careful controls on confidentiality and privacy, as required by law.

DATES: We will consider all comments that we receive on or before October 18, 2024.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the National Animal Health Monitoring System (NAHMS), including whether the information will have practical utility; (b) the accuracy of NAHMS' estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

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

- **Federal eRulemaking Portal:** Go to www.regulations.gov. Enter APHIS–2024–0031 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–2024–0031, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

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 NAHMS SAP Data Security Requirements, contact Ms. Nia Washington-Plaskett, Program Analyst, Center for Epidemiology and Animal Health, VS, APHIS, 2150 Centre Ave., Bldg. B, Fort Collins, CO 80524; (866)

907–8190; email: nia.washington-plaskett@usda.gov or vs.sp.ceah.pci@usda.gov. For more detailed information on the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2533 or email: joseph.moxey@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: National Animal Health Monitoring System; Data Security Requirements for Accessing Confidential Data.

OMB Control Number: 0579–XXXX.

Type of Request: Approval of a new information collection to collect information from the public to fulfill the Animal and Plant Health Inspection Service's National Animal Health Monitoring System's security requirements prior to allowing individuals to access confidential data assets for the purposes of building evidence.

Abstract: Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (hereafter referred to as the Evidence Act) mandates that the Office of Management and Budget (OMB) establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. Specifically, the Evidence Act requires OMB to establish a common application process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply for access to confidential data assets collected, accessed, or acquired by a Federal statistical agency or unit. This new process will be implemented while maintaining stringent controls to protect confidentiality and privacy, as required by law.

The Evidence Act requires that each statistical agency or unit establish an identical application process. The Evidence Act further requires that Federal statistical agencies establish common criteria for determining whether to approve an application for confidential data, timeframes for prompt determination, an appeals process for adverse determinations, and standards for transparency. In response to these requirements, the statistical agencies and units will operate a web-based portal (referred to as the SAP Portal) on behalf of OMB to provide the common application form to applicants. The objective of the SAP Portal is to increase public access to confidential data for the purposes of evidence building and reduce the burden of applying for confidential data, which currently involves separate processes with each of

the Federal statistical agencies and units. Data discovery, the SAP application process, and the submission for review are planned to take place within the web-based SAP Portal as described below.

Data collected, accessed, or acquired by the Federal statistical agencies and units is vital for developing evidence on conditions, characteristics, and behaviors of the public and on the operations and outcomes of public programs and policies. This evidence can benefit the stakeholders in the programs, the broader public, as well as policymakers and program managers at the local, State, Tribal, and National levels. The many benefits of access to data for evidence building notwithstanding, the U.S. Department of Agriculture's (USDA's), Animal and Plant Health Inspection Service's (APHIS'), National Animal Health Monitoring System (NAHMS) is required by law to maintain careful controls that allow it to minimize disclosure risk while protecting confidentiality and privacy. The fulfillment of NAHMS' data security requirements places a degree of burden on the public, which is outlined further in this notice.

The SAP Portal is a web-based application for the public to request access to confidential data assets from the Federal statistical agencies and units. The objective of the SAP Portal is to increase public access to confidential data for the purposes of evidence building and reduce the burden of applying for confidential data. Once an individual's application in the SAP Portal has received a positive determination, the data-owning agency(ies) or unit(s) will begin the process of collecting information to fulfill their data security requirements.

The paragraphs below outline the SAP Policy, the steps to complete an application through the SAP Portal, and the process for agencies, such as APHIS, to collect information fulfilling their data security requirements.

The SAP Policy

At the recommendation of the Interagency Council on Statistical Policy (ICSP), the SAP Policy establishes the SAP to be implemented by the Federal statistical agencies and units and incorporates directives from the Evidence Act. The policy is intended to provide guidance as to the application and review processes using the SAP Portal, setting forth clear standards that enable Federal statistical agencies and units to implement a common application form and a uniform review process. The SAP Policy was submitted

to the public for comment in January 2022 (87 FR 2459). The policy was finalized and published on December 8, 2022.¹

The SAP Portal

The SAP Portal is an application interface connecting applicants seeking data with a catalog of data assets owned by the Federal statistical agencies and units and is hosted at www.researchdatagov.org. The SAP Portal is not a new data repository or warehouse; confidential data assets will continue to be stored in secure data access facilities owned and hosted by the Federal statistical agencies and units. The SAP Portal will provide a streamlined application process across agencies, reducing redundancies in the application process. This single SAP Portal will improve the process for applicants, tracking and communicating the application process throughout its lifecycle. This reduces redundancies and burden on applicants who request access to data from multiple agencies. The SAP Portal will automate key tasks to save resources and time and will bring agencies into compliance with the Evidence Act statutory requirements.

Data Discovery

Individuals begin the process of accessing restricted use data by discovering confidential data assets through the SAP data catalog, maintained by Federal statistical agencies at www.researchdatagov.org. Potential applicants can search by agency, topic, or keyword to identify data of interest or relevance. Once they have identified data of interest, applicants can view metadata outlining the title, description or abstract, scope and coverage, and detailed methodology related to a specific data asset to determine its relevance to their research.

While Federal statistical agencies and units shall endeavor to include metadata in the SAP data catalog on all confidential data assets for which they accept applications, it may not be feasible to include metadata for some data assets (e.g., potential curated versions of administrative data). A Federal statistical agency or unit may still accept an application through the SAP Portal even if the requested data asset is not listed in the SAP data catalog.

SAP Application Process

Individuals who have identified and wish to access confidential data assets

are able to apply for access through the SAP Portal, which was released to the public in late 2022 (www.researchdatagov.org). Applicants must create an account and follow all steps to complete the application. Applicants begin by entering their personal, contact, and institutional information, as well as the personal, contact, and institutional information of all individuals on their research team. Applicants proceed to provide summary information about their proposed project, to include project title, duration, funding, timeline, and other details including the data asset(s) they are requesting and any proposed linkages to data not listed in the SAP data catalog, including non-Federal data sources. Applicants then proceed to enter detailed information regarding their proposed project, including a project abstract, research question(s), literature review, project scope, research methodology, project products, and anticipated output. Applicants must demonstrate a need for confidential data, outlining why their research question cannot be answered using publicly available information.

Submission for Review

Upon submission of their application, applicants will receive a notification that their application has been received and is under review by the data-owning agency or agencies (in the event where data assets are requested from multiple agencies). At this point, applicants will also be notified that application approval does not alone grant access to confidential data, and that, if approved, applicants must comply with the data-owning agency's security requirements outside of the SAP Portal, which may include a background check.

In accordance with the Evidence Act and the direction of the ICSP, Federal agencies will approve or reject an application within a prompt timeframe. In some cases, Federal agencies may determine that additional clarity, information, or modification is needed and request the applicant to "revise and resubmit" their application.

Data discovery, the SAP application process, and the submission for review are planned to take place within the web-based SAP Portal. As noted above, the notice announcing plans to collect information through the SAP Portal was published separately in the **Federal Register** (87 FR 53793–53795)² on September 1, 2022. (See footnote 1 for more information about the SAP Policy.)

Access to Restricted Use Data

In the event of a positive determination, the applicant will be notified that their proposal has been accepted. The positive or final adverse determination concludes the SAP Portal process. In the instance of a positive determination, the data-owning agency (or agencies) will contact the applicant to provide instructions on the agency's security requirements that must be completed to gain access to the confidential data. The completion and submission of the agency's security requirements will take place outside of the SAP Portal.

Collection of Information for Data Security Requirements

In the instance of a positive determination for an application requesting access to NAHMS-owned confidential data asset, NAHMS will contact the applicant(s) to initiate the process of collecting information to fulfill its data security requirements. This process allows NAHMS to place the applicant(s) in a trusted access category and includes the collection of the following information from applicant(s):

- Training requirements:
 - For datasets owned by NAHMS, completion of a *NAHMS Data Access Security Briefing*, which will include *CIPSEA Training* and a *NAHMS CIPSEA Quiz* will be required prior to accessing the restricted use data. CIPSEA stands for Confidential Information Protection and Statistical Efficiency Act of 2018, Title III of Public Law 115–435, codified in 44 U.S.C. Ch. 35.
 - For datasets owned by USDA's National Agricultural Statistics Service (NASS) and NAHMS, NASS personnel will provide a *NASS Data Access Security Briefing* to all applicants who were approved access to restricted use data. The briefing will include information on CIPSEA and other applicable Federal laws that protect the restricted use data as well as preparing and submitting disclosure reviews.
 - For datasets owned by NASS and NAHMS, applicants will be provided with the *USDA NASS Data Lab Handbook* that explains the policies and procedures associated with accessing unpublished NASS data in a NASS Data Lab (including data enclaves). Each researcher approved to access unpublished NASS data is required to sign the *NASS ADM–044: User Attestation* to acknowledge they were provided with the *USDA NASS Data Lab Handbook* and agree to abide by its provisions.
- Appointment of agency:

¹ <https://www.whitehouse.gov/wp-content/uploads/2022/12/M-23-04.pdf>.

² https://www.regulations.gov/document/NSF-FRDOC_0001-2997.

○ Applicants will complete and sign the *NAHMS Agent Agreement* form. This form appoints the approved applicant as an agent of NAHMS, specifies the data to which the agreement applies and the conditions by which the agent must adhere to protect the confidentiality of the data, provides citations and excerpts from applicable laws under which data are protected, and requires a signature by the applicant.

○ For datasets owned by NASS and NAHMS, the applicants will complete and sign the *NASS ADM-043: Certification and Restrictions on Use of Unpublished Data*. This form is required to be signed by researchers who have been approved to access unpublished NASS data. The form contains excerpts of the various laws that apply to the unpublished data being provided to the applicant. The form explains the restrictions associated with the unpublished data and includes a place for the applicant to sign the form, thereby acknowledging the restrictions and agreeing to abide by them.

• Physical or virtual Data Lab security requirement:

○ If physical Data Lab access is requested, the applicant will be required to take the *NAHMS Data Lab Training and USDA Information Security Awareness Training*. The *NAHMS Data Lab Training* outlines the processes and procedures regarding gaining access to, working within, and requesting output from the physical NAHMS Data Lab in Fort Collins, CO, and the *USDA Information Security Awareness Training* is required of all personnel who are given access to USDA information technology systems.

○ If virtual enclave access is requested, the applicant will be required to complete a site inspection with NAHMS personnel (using the *NAHMS Site Inspection Checklist*) or NASS personnel (using the *NASS ADM-045: Site Inspection Checklist*), which gathers information about the physical environment and the computer that the applicant will use to gain access to the virtual enclave.

Note that the training requirements and security agreements listed above are for researchers requesting access to NAHMS-owned data or NASS and NAHMS co-owned data. The burden and cost estimates associated with this information collection request (ICR) account for both. NAHMS and NASS have agreed to report the burden and cost estimates for the NASS activities above under this ICR, and the NASS activities will be merged into the NASS ICR (0535-0274) upon its next renewal.

We are asking OMB to approve our use of this information collection activity 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 0.50 hours per response.

Respondents: State, local, and Tribal governments, researchers, and other individuals, as appropriate.

Estimated annual number of respondents: 10.

Estimated annual number of responses per respondent: 6.

Estimated annual number of responses: 52.

Estimated total annual burden on respondents: 26 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 14th day of August, 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024-18514 Filed 8-16-24; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-46-2024]

Foreign-Trade Zone (FTZ) 84, Notification of Proposed Production Activity; voestalpine High Performance Metals LLC d/b/a voestalpine Specialty Metals; (Specialty Metal Products); Houston, Texas

voestalpine High Performance Metals LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Houston, Texas within FTZ 84. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on August 12, 2024.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished products include: cold-formed steel shapes; hot-rolled steel; steel bar; drilled and honed seamless copper tube; bars of nickel and nickel alloy, drilled and honed seamless steel and nickel tube; and copper bars, rods and profiles (duty rate ranges from duty-free to 3%).

The proposed foreign-status materials/components include: cold-formed steel shapes; hot-rolled steel; steel bar; bars of nickel and nickel alloy, drilled and honed seamless steel and nickel tube; and copper bars, rods and profiles (duty rate ranges from duty-free to 3%). The request indicates that certain materials/components may be subject to duties under section 232 of the Trade Expansion Act of 1962 (section 232) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 232 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is September 30, 2024.

A copy of the notification will be available for public inspection in the

“Online FTZ Information System” section of the Board’s website.
For further information, contact Kolade Osho at Kolade.Osho@trade.gov.
Dated: August 14, 2024.
Elizabeth Whiteman,
Executive Secretary.
[FR Doc. 2024–18515 Filed 8–16–24; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE
International Trade Administration
[C–122–858]
Certain Softwood Lumber Products From Canada: Final Results of the Countervailing Duty Administrative Review; 2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.
SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers and exporters of certain softwood lumber products (softwood lumber) from Canada received countervailable subsidies during the period of review (POR), January 1, 2022, through December 31, 2022.
DATES: Applicable August 19, 2024.
FOR FURTHER INFORMATION CONTACT: Samuel Brummitt or Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7851 or (202) 482–4793, respectively.
SUPPLEMENTARY INFORMATION:
Background
On February 6, 2024, Commerce published the preliminary results of this administrative review in the **Federal**

Register and invited interested parties to comment.¹ On April 25, 2024, Commerce extended the deadline for issuing the final results of this review until August 2, 2024, which was tolled by seven days until August 9, 2024.² On August 7, 2024, Commerce extended the deadline for the final results of this review until August 12, 2024.³
For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁴ A list of topics discussed in the Issues and Decision Memorandum is included as Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.
Scope of the Order⁵
The product covered by this *Order* is certain softwood lumber products from Canada. For a complete description of the scope of the order, see the Issues and Decision Memorandum.
Analysis of Subsidy Programs and Comments Received
Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶

Changes Since the Preliminary Results
The subsidy programs under review, and the issues raised in case and rebuttal briefs submitted by the interested parties, are discussed in the Issues and Decision Memorandum. Based on our analysis of the comments received from the interested parties, we made changes to the subsidy rates calculated for certain respondents. For a discussion of these changes, see the Issues and Decision Memorandum.
Rate for Non-Selected Companies Under Review

Because the rates calculated for the companies selected for individual review are above *de minimis* and not based entirely on facts available, we applied a subsidy rate based on a weighted average of the subsidy rates calculated for the reviewed companies using sales data submitted by those companies to calculate a rate for the companies not selected for review. This is consistent with the methodology that we would use in an investigation to establish the all-others rate, pursuant to section 705(c)(5)(A) of the Act.
For further information on the calculation of the non-selected rate, see the section titled “Final *Ad Valorem* Rate for Non-Selected Companies under Review” in the Issues and Decision Memorandum. For a list of the non-selected companies, see Appendix II to this notice.

Final Results of Review

In accordance with section 751(a)(1)(A) and of the Act and 19 CFR 351.221(b)(5), we determine that the following total net countervailable subsidy rates exist for the period January 1, 2022, through December 31, 2022:

Company	Subsidy rate (percent <i>ad valorem</i>)
Canfor Corporation and its cross-owned affiliates ⁷	6.14
J.D. Irving, Limited and its cross-owned affiliates ⁸	3.88
Tolko Marketing and Sales Ltd. and Tolko Industries Ltd. ⁹	9.61
West Fraser Mills Ltd. and its cross-owned affiliates ¹⁰	6.85
Non-Selected Companies ¹¹	6.74

¹ See *Certain Softwood Lumber Products from Canada: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2022*, 89 FR 8147 (February 6, 2024) (*Preliminary Results*).
² See Memorandum, “Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2022,” dated April 25, 2024; see also Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

³ See Memorandum, “Second Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2022,” dated August 7, 2024.
⁴ See Memorandum, “Decision Memorandum for the Final Results of Countervailing Duty Administrative Review of the Countervailing Duty Order on Certain Softwood Lumber Products from Canada; 2022,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁵ See *Certain Softwood Lumber Products from Canada: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 83 FR 347 (January 3, 2018) (*Order*).
⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a). If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

In accordance with section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the companies subject to this review for shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed companies, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposits,

⁷ Commerce finds the following companies to be cross-owned with Canfor Corporation: Canadian Forest Products; Ltd. and Canfor Wood Products Marketing, Ltd.

⁸ Commerce finds the following companies to be cross-owned with J.D. Irving, Limited: Miramichi Timber Holdings Limited; The New Brunswick Railway Company; Rothesay Paper Holdings Ltd.; and St. George Pulp & Paper Limited.

⁹ Commerce finds Meadow Lake OSB Mill Corp. and several holding companies, the identities of which are business proprietary information, to be cross-owned with Tolko Marketing and Sales Ltd. and Tolko Industries Ltd.

¹⁰ Commerce finds the following companies to be cross-owned with West Fraser Mills Ltd.: Blue Ridge Lumber Inc.; Manning Forest Products, Ltd.; Sundre Forest Products Inc.; Sunpine Inc.; and West Fraser Alberta Holdings, Ltd.; and West Fraser Timber Co., Ltd.

¹¹ For a list of these companies, see Appendix II.

when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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

Commerce is issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 351.221(b)(5).

Dated: August 12, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Subsidies Valuation
- V. Analysis of Programs
- VI. Final *Ad Valorem* Rate for Non-Selected Companies Under Review
- VII. Analysis of Comments
 - A. General Issues
 - Comment 1: Whether Commerce Should Have Deferred the New Subsidy Allegations
 - Comment 2: Whether Respondent Selection Was Proper
 - Comment 3: Whether Commerce Should Consider Climate Change Goals
 - Comment 4: Whether Commerce's Specificity Analysis Is Consistent with the Law
 - B. General Stumpage Issues
 - Comment 5: Whether Stumpage Is an Untied Subsidy
 - Comment 6: Whether to Compare Government Transaction-Specific Prices to an Average Benchmark Price or Offset the Less Than Adequate Remuneration (LTAR) Benefit Using Negative Benefits
 - C. Alberta Stumpage Issues
 - Comment 7: Whether the Alberta Stumpage Market Is Distorted
 - Comment 8: Whether Private Standing Timber Prices in Nova Scotia Are Available in Alberta
 - Comment 9: Whether the Tree Size in Nova Scotia, as Measured by Diameter, Is Comparable to Tree Size in Alberta
 - Comment 10: Whether Spruce-Pine-Fir (SPF) Species in Nova Scotia Are Comparable to SPF Species in Alberta

- Comment 11: Whether the Nova Scotia Benchmark Is Comparable or Should Be Adjusted to Account for Log Product Characteristics
- Comment 12: Whether Nova Scotia's Forest Is Comparable to Alberta's Forest
- Comment 13: Whether Timber Damage Assessment Survey Prices Are an Appropriate Benchmark for Alberta Crown-Origin Stumpage
- Comment 14: Whether Commerce Should Annualize Alberta Stumpage Purchase and Benchmark Prices
- Comment 15: Whether to Adjust the Nova Scotia Benchmark to Account for Beetle-Damaged and Fire-Damaged Timber Harvested in Alberta
- Comment 16: Whether Nova Scotia Is Comparable to Alberta in Terms of Haulage Costs and Whether to Otherwise Adjust the Nova Scotia Benchmark to Account for Such Differences
- Comment 17: Whether Commerce Should Make Adjustments to Stumpage Rates Paid by the Respondents to Account for "Total Remuneration" in Alberta and New Brunswick
- D. British Columbia (BC) Stumpage Issues
- Comment 18: Whether Commerce Should Continue to Use Washington State Department of Revenue (WDOR) Data for a BC Stumpage Benchmark
- Comment 19: Whether Commerce Should Make Adjustments to the WDOR Data
- Comment 20: Whether to Change Commerce's Calculations Relating to Third Party Tenures
- Comment 21: Whether to Account for BC's "Stand-as-a-Whole" Stumpage Pricing
- Comment 22: Whether Commerce's Selection of a Log Volume Conversion Factor Was Appropriate
- E. New Brunswick Stumpage Issues
- Comment 23: Whether the Private Stumpage Market in New Brunswick Is Distorted and Should Be Used as Tier-One Benchmarks
- Comment 24: Whether Commerce Should Use JDIL's Own Purchases of Sawlogs in Nova Scotia or the 2021–2022 *Private Market Survey* as a Benchmark for New Brunswick Crown Stumpage
- Comment 25: Whether Log Pricing Differences Between Nova Scotia and New Brunswick Require an Adjustment to the Nova Scotia Benchmark Utilized in JDIL's Stumpage Benefit Analysis
- F. Nova Scotia Stumpage Benchmark Issues
- Comment 26: Whether to Revise the Conversion Factor Used in the Calculation of the Nova Scotia Benchmark
- Comment 27: Whether Commerce Should Index the Nova Scotia Benchmark
- Comment 28: Whether Commerce Should Publicly Disclose the Anonymized Data that Comprise the 2021–2022 *Private Market Survey*
- Comment 29: Whether the Nova Scotia Benchmark Adequately Accounts for Regional and County-Level Differences
- Comment 30: Reliability of Nova Scotia Private-Origin Standing Timber Benchmark
- G. Log Export Restraint (LER) Issues

Comment 31: Whether the LER in British Columbia (BC) Results in a Financial Contribution

Comment 32: Whether the LER Has an Impact in BC

H. Purchase of Goods for More Than Adequate Remuneration Issues

Comment 33: Whether Benefits Under the BC Hydro Electricity Purchase Agreements (EPA) Program Are Tied to Overall Production

Comment 34: Whether Commerce Properly Calculated the Benefit Conferred Under the BC Hydro EPAs

I. Grant Program Issues

Federal

Comment 35: Whether the Sustainable Development Technology Canada Is Countervailable

Comment 36: Whether the Forest Machines Connectivity Master Project Is *De Facto* Specific

Comment 37: Whether the Green Jobs Program Is Countervailable

Alberta

Comment 38: Whether the AESO Load Shedding Program Is Countervailable

Comment 39: Whether the Technology Innovation and Emissions Reduction Program Is Countervailable

British Columbia

Comment 40: Whether BC's Coloured Fuel Program Is Countervailable

New Brunswick

Comment 41: Whether Commerce Should Continue to Find the Silviculture and License Management Programs Countervailable

J. Tax and Other Revenue Forgone Programs Issues

Federal

Comment 42: Whether the Accelerated Capital Cost Allowance (ACCA) for Class 53 Assets Program Is Specific

Comment 43: Whether Commerce Is Applying the Correct Benchmark for the ACCA for Class 53 Assets Program

Comment 44: Whether the Benefit Methodology for the ACCA Class 53 Assets Program Is Correct

Comment 45: Whether the Capital Cost Allowance for Class 1 Assets Program Is Countervailable

Comment 46: Whether the Federal and Provincial Research and Development (R&D) Tax Credits Are Specific

Comment 47: Whether Attribution of the R&D Tax Credits Is Correct

Comment 48: Whether the Federal Logging Tax Credit and Provincial Logging Tax Credit Are Countervailable

Alberta

Comment 49: Whether the Tax Exempt Fuel Use Is Countervailable

Comment 50: Whether the Property Tax Economic Obsolescence Allowance Is Countervailable

Comment 51: Whether Tax Savings Under Alberta's Schedule D Are Countervailable

British Columbia

Comment 52: Whether the CleanBC's Industrial Incentive Program Is Countervailable

New Brunswick

Comment 53: Whether the Gasoline and Motive Fuel Tax (GMFT) Program

Provides a Financial Contribution in the Form of Revenue Forgone or Can Be Found Specific

Comment 54: Whether Commerce Should Revise the GMFT Benefit Calculation

Comment 55: Whether Commerce Should Find New Brunswick's Property Tax Incentives for Private Forest Producers Program Countervailable

Comment 56: Whether Commerce Should Find the Large Industrial Renewable Energy Purchase Program Countervailable

K. Company-Specific Issues

Comment 57: Whether Commerce Correctly Calculated the Benefit JDIL Received from the Atlantic Investment Tax Credit, Scientific Research and Experimental Development, and New Brunswick R&D Tax Credit Programs

Comment 58: Whether Commerce Should Correct an Error in Tolko's BC Coloured Fuel Calculation

Comment 59: Whether Commerce Should Correct Errors in West Fraser's BC Stumpage Calculation

VIII. Recommendation

Appendix II

Non-Selected Exporters/Producers

- 1 0752615 B.C Ltd; Fraserview Remanufacturing Inc, DBA Fraserview Cedar Products
- 2 10104704 Manitoba Ltd O/A Woodstock Forest Products
- 3 1074712 BC Ltd. (Quadra Cedar)
- 4 5214875 Manitoba Ltd.; AM Lumber Brokerage
- 5 Absolute Lumber Products, Ltd.
- 6 Adwood Manufacturing Ltd.
- 7 AJ Forest Products Ltd.
- 8 Aler Forest Products, Ltd.
- 9 Alpa Lumber Mills Inc.
- 10 Andersen Pacific Forest Products Ltd.
- 11 Antrim Cedar Corporation
- 12 Aquila Cedar Products Ltd.
- 13 Arboc Lumber Inc. (aka Arboc Bois Doeuvre Inc.)
- 14 Aspen Pacific Industries Inc.
- 15 Aspen Planers Ltd.
- 16 B&L Forest Products Ltd.
- 17 B.B. Pallets Inc. (aka Les Palettes B.B. Inc.)
- 18 Babine Forest Products Limited
- 19 Bakerview Forest Products Inc.
- 20 Barrette-Chapais Ltee
- 21 BarretteWood Inc.
- 22 Benoit & Dionne Produits Forestiers Ltee (aka Benoit & Dionne Forest Products Ltd.)
- 23 Blanchet Multi Concept Inc.
- 24 Blanchette & Blanchette Inc.
- 25 Bois Aise de Montreal Inc.
- 26 Bois Bonsai Inc.
- 27 Bois D'oeuvre Cedrico Inc. (aka Cedrico Lumber Inc.)
- 28 Bois Daaquam inc. (aka Daaquam Lumber Inc.)
- 29 Bois et Solutions Marketing SPEC, Inc. (aka SPEC Wood & Marketing Solution or SPEC Wood and Marketing Solutions Inc.)
- 30 Bois Weedon Inc.
- 31 Boisaco Inc.
- 32 Boscus Canada Inc.
- 33 Boucher Bros. Lumber Ltd.
- 34 BPWood Ltd.
- 35 Bramwood Forest Inc.
- 36 Brink Forest Products Ltd.

37 Brunswick Valley Lumber Inc.

38 Busque & Laflamme Inc.

39 Canadian Bavarian Millwork & Lumber Ltd.

40 Canyon Lumber Company, Ltd.

41 Carrier & Begin Inc.

42 Carrier Forest Products Ltd.

43 Carrier Lumber Ltd.

44 Carter Forest Products Inc.

45 Cedarland Forest Products Ltd.

46 Cedarline Industries Ltd.

47 Central Alberta Pallet Supply

48 Central Cedar Ltd.

49 Centurion Lumber Ltd.

50 Chaleur Forest Products Inc.

51 Chaleur Forest Products LP

52 Channel-ex Trading Corporation

53 CHAP Alliance Inc.

54 Clair Industrial Development Corp. Ltd

55 Clermond Hamel Ltee

56 CLG Enterprises Inc.

57 CNH Products Inc.

58 Columbia River Shake & Shingle Ltd.; Teal Cedar Products Ltd., dba The Teal Jones Group

59 Commonwealth Plywood Co. Ltd.

60 Conifex Fibre Marketing Inc.

61 Coulson Manufacturing Ltd.

62 Cowichan Lumber Ltd.

63 CS Manufacturing Inc., dba Cedarshed

64 CWP Industriel Inc. (aka CWP—Industriel Inc.)

65 D & D Pallets Ltd.

66 Dakeryn Industries Ltd.

67 Decker Lake Forest Products Ltd.

68 Deep Cove Forest Products, Inc.

69 Delco Forest Products Ltd.

70 Delta Cedar Specialties Ltd.

71 Devon Lumber Co. Ltd.

72 DH Manufacturing Inc.

73 Doubletree Forest Products Ltd.

74 Downie Timber Ltd.

75 Dunkley Lumber Ltd.

76 EACOM Timber Corporation

77 East Fraser Fiber Co. Ltd.

78 Edgewood Forest Products Inc.

79 ER Probyn Export Ltd.

80 Falcon Lumber Ltd.

81 Fontaine Inc.; Gestion Natanis Inc.; Les Placements Jean-Paul Fontaine Ltee; Placements Nicolas Fontaine Inc.

82 Foothills Forest Products Inc.

83 Fort St. James Forest Products Limited Partnership

84 Fraser Specialty Products Ltd.

85 FraserWood Industries Ltd.

86 Furtado Forest Products Ltd.

87 Galloway Lumber Company Ltd.

88 Gilbert Smith Forest Products Ltd.

89 Goldwood Industries Ltd.

90 Goodfellow Inc.

91 Gorman Bros. Lumber Ltd.

92 Greendale Industries Inc.

93 GreenFirst Forest Products (QC) Inc.

94 Greenwell Resources Inc.

95 Griff Building Supplies Ltd.

96 Groupe Crete Chertsey Inc.

97 Groupe Crete Division St-Faustin Inc.

98 Groupe Lebel Inc.

99 H.J. Crabbe & Sons Ltd.

100 Haida Forest Products Ltd.

101 Halo Sawmill Manufacturing Limited Partnership

102 Hampton Tree Farms, LLC, dba Hampton Lumber Sales Canada

103 Hornepayne Lumber LP

104 Hudson Mitchell & Sons Lumber Inc.
 105 Hy Mark Wood Products Inc.
 106 Independent Building Materials Distribution Inc.
 107 Interfor Corporation
 108 Interfor Sales & Marketing Ltd.
 109 Ivor Forest Products Ltd.
 110 J&G Log Works Ltd.
 111 J.H. Huscroft Ltd.
 112 Jan Woodlands (2001) Inc.
 113 Jasco Forest Products Ltd.
 114 Jazz Forest Products Ltd.
 115 Jhaji Lumber Corporation
 116 Kalesnikoff Lumber Co. Ltd.
 117 Kan Wood, Ltd.
 118 Kebois Ltee/Ltd
 119 Kelfor Industries Ltd.
 120 Kermod Forest Products Ltd.
 121 Keystone Timber Ltd.
 122 La Crete Sawmills Ltd.
 123 Lafontaine Lumber Inc.
 124 Langevin Forest Products Inc.
 125 Lecours Lumber Co. Limited
 126 Leisure Lumber Ltd.
 127 Les Bois d'oeuvre Beaudoin Gauthier Inc.
 128 Les Bois Martek Lumber
 129 Les Chantiers de Chibougamau Ltd./Ltee
 130 Les Industries P.F. Inc.
 131 Leslie Forest Products Ltd.
 132 Lignum Forest Products LLP
 133 Linwood Homes Ltd.
 134 Lonestar Lumber Inc.
 135 Lulumco Inc.
 136 Magnum Forest Products, Ltd.
 137 Maibec Inc.
 138 Manitou Forest Products Ltd
 139 Marwood Ltd.
 140 Matériaux Blanchet Inc.
 141 Metrie Canada Ltd.
 142 Mid Valley Lumber Specialties Ltd.
 143 Midway Lumber Mills Ltd.
 144 Mill & Timber Products Ltd.
 145 Millar Western Forest Products Ltd.
 146 Mirax Lumber Products Ltd.
 147 Mobilier Rustique (Beauce) Inc.; J.F.S.R. Inc.; Gestion C.A. Rancourt Inc.; Gestion J.F. Rancourt Inc.; Gestion Suzie Rancourt Inc.; Gestion P.H.Q. Inc.; 9331–3419 Quebec Inc.; 9331–3468 Quebec Inc.; SPQ Inc.
 148 Monterra Lumber Mills Limited
 149 Morwood Forest Products Inc.
 150 Multicedre ltee
 151 Murray Brothers Lumber Company Ltd
 152 Nakina Lumber Inc.
 153 National Forest Products Ltd.
 154 Nicholson and Cates Ltd.
 155 NorSask Forest Products Limited Partnership; NorSask Forest Products Inc.
 156 North American Forest Products Ltd. (located in Abbotsford, British Columbia)
 157 North Enderby Timber Ltd.
 158 Northland Forest Products Ltd.
 159 Oakwood Manufacturing, A Division of Weston Forest Products Inc.
 160 Olympic Industries, Inc.; Olympic Industries ULC¹²

161 Pacific NorthWest Lumber Ltd.
 162 Pacific Western Wood Works Ltd.
 163 PalletSource Inc.
 164 Parallel Wood Products Ltd.
 165 Partap Forest Products Ltd.
 166 Peak Industries (Cranbrook) Ltd.
 167 Phoenix Forest Products Inc.
 168 Pine Ideas Ltd.
 169 Pioneer Pallet & Lumber Ltd.
 170 Porcupine Wood Products Ltd.
 171 Power Wood Corp.
 172 Precision Cedar Products Corp.
 173 Produits Forestiers Petit Paris Inc.
 174 Produits Matra Inc.; Sechoirs de Beauce Inc.; Bois Ouvre de Beauceville (1992), Inc.
 175 Promobois G.D.S. Inc.
 176 R.A. Green Lumber Ltd.
 177 Rayonier A.M. Canada GP
 178 Rembos Inc.
 179 Rene Bernard inc.
 180 Resolute FP Canada Inc.; 9192–8515 Quebec Inc.; Abitibi-Bowater Canada Inc.; Bowater Canadian Ltd.; Produits Forestiers Maurice SEC.; Resolute Forest Products Inc.
 181 Rielly Industrial Lumber Inc.
 182 River City Remanufacturing Inc.
 183 S&R Sawmills Ltd.
 184 San Group
 185 San Industries Ltd.
 186 Sawarne Lumber Co. Ltd.
 187 Scierie St-Michel Inc.
 188 Scierie West Brome Inc.
 189 Scott Lumber Sales Ltd.
 190 Shakertown Corp.
 191 Sigurdson Forest Products Ltd.
 192 Sinclair Group Forest Products Ltd.
 193 Skana Forest Products Ltd.
 194 Skeena Sawmills Ltd.
 195 South Beach Trading Inc.
 196 South Coast Reman Ltd.
 197 Southcoast Millwork Ltd.
 198 Specialiste du Bardeau de Cedre Inc. (aka SBC)
 199 Spruceland Millworks Inc.
 200 Sundher Timber Products Inc.
 201 Surrey Cedar Ltd.
 202 Taan Forest Limited Partnership (aka Taan Forest Products)
 203 Taiga Building Products Ltd.
 204 Tall Tree Lumber Company
 205 Terminal Forest Products Ltd.
 206 TG Wood Products
 207 The Wood Source Inc.
 208 Top Quality Lumber Ltd.
 209 Trans-Pacific Trading Ltd.
 210 Triad Forest Products Ltd.
 211 Twin Rivers Paper Co. Inc.
 212 Tyee Timber Products Ltd.
 213 Universal Lumber Sales Ltd.
 214 Usine Sartigan Inc.
 215 Vaagen Fibre Canada, ULC
 216 Vancouver Specialty Cedar Products Ltd.
 217 Vanderhoof Specialty Wood Products Ltd.
 218 Vanderwell Contractors (1971) Ltd.
 219 Visscher Lumber Inc.
 220 W.I. Woodtone Industries Inc.
 221 West Bay Forest Products Ltd.
 222 West Coast Panel Cutters
 223 Western Forest Products Inc.
 224 Western Lumber Sales Limited
 225 Westminster Industries Ltd.
 226 Weston Forest Products Inc.
 227 Westrend Exteriors Inc.
 228 Weyerhaeuser Co.

229 White River Forest Products L.P.
 230 Woodline Forest Products Ltd.
 231 Woodstock Forest Products
 232 Woodtone Specialties Inc.

[FR Doc. 2024–18442 Filed 8–16–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823, A–834–807, A–307–820]

Silicomanganese From India, Kazakhstan, and Venezuela: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: As a result of these expedited sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping (AD) duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of dumping at the levels indicated in the “Final Results of Sunset Reviews” section of this notice.

DATES: Applicable August 19, 2024.

FOR FURTHER INFORMATION CONTACT: Jacob Waddell, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1369.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2024, Commerce published the notice of initiation of the fourth sunset reviews of the *Orders*,¹ pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On May 15, 2024, Commerce received notices of intent to participate in the sunset reviews from Eramet Marietta, Inc. (Eramet), the domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i).³ Eramet stated that it is an interested party under section 771(9)(C) of the Act as a U.S. manufacturer, producer, or wholesaler of the domestic like product.⁴

¹ See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela*, 67 FR 36149 (May 23, 2002) (*Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 89 FR 35073 (May 1, 2024).

³ See Domestic Interested Party's Letters, “Notice of Intent To Participate,” dated January 9, 2024.

⁴ *Id.*

¹² On March 21, 2023, Olympic Industries, Inc. and Olympic Industries ULC (collectively, Olympic) notified Commerce that Olympic Industries Inc.-Reman Code, Olympic Industries ULC-Reman, and Olympic Industries ULC-Reman Code are no longer used by Olympic to export softwood lumber to the United States. See Olympic's Letter, “Response to Department of Commerce's Clarification Request,” dated March 21, 2023.

On May 30, 2024, the domestic interested party filed adequate substantive responses within the deadline specified in 19 CFR 351.218(d)(3)(i).⁵ Commerce did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Orders*. On July 22, 2024, Commerce tolled certain deadlines in these administrative proceedings by seven days.⁶ The deadline for the final results of the sunset reviews is now September 5, 2024.

Scope of the Order

The merchandise covered by these *Orders* is silicomanganese from India, Kazakhstan, and Venezuela, respectively. For a complete description of the scope of the *Orders*, see the Issues and Decision Memorandum.⁷

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the margins of dumping likely to prevail if the *Orders* were to be revoked, is provided in the Issues and Decision Memorandum.⁸ A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* on silicomanganese from India,

Kazakhstan, and Venezuela would likely lead to the continuation or recurrence of dumping. We determine that the weighted-average dumping margins likely to prevail are up to 20.53 percent for India, 247.88 percent for Kazakhstan, and 24.62 percent for Venezuela.

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. Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these expedited final results of sunset reviews and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: August 13, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2024–18494 Filed 8–16–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Application for Export Trade Certificate of Review

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for

review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on June 11, 2024 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: International Trade Administration, Commerce.

Title: Export Trade Certificate of Review.

OMB Control Number: 0625–0125.

Form Number(s): ITA–4093P.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 9.

Average Hours per Response: 32 hours (application); 2 hours (annual report).

Burden Hours: 426 hours.

Needs and Uses: The collection of information is necessary for both the Departments of Commerce and Justice to conduct an analysis, in order to determine whether the applicant and its members are eligible to receive the protection of an Export Trade Certificate of Review and whether the applicant's proposed export-related conduct meets the standards in section 303(a) of the Act. The collection of information constitutes the essential basis of the statutory determinations to be made by the Secretary of Commerce and the Attorney General.

Affected Public: Business or other for-profit organizations; not-for-profit institutions, and State, local or Tribal government.

Frequency: Application for an Export Trade Certificate of Review is voluntary, and submission of an application form is required each time an entity of the affected public applies for a new or amended Export Trade Certificate of Review. Completion of an annual report is required one time per year from existing Certificate holders.

Respondent's Obligation: Voluntary

Legal Authority: Title III of the Export Trading Company Act of 1982, 15 U.S.C. 4011–4021

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be

⁵ See Domestic Interested Party's Letters, "Substantive Response," dated February 1, 2024.

⁶ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁷ See Memorandum, "Decision Memorandum for the Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders on Silicomanganese from India, Kazakhstan, and Venezuela," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁸ *Id.*

submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0625–0125.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–18499 Filed 8–16–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–857]

Certain Softwood Lumber Products From Canada: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review, and Final Determination of No Shipments; 2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), January 1, 2022, through December 31, 2022.

DATES: Applicable August 19, 2024.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen and Maisha Cryor, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2769 and (202) 482–5831, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on February 6, 2024.¹ This review covers 243 producers/exporters of subject merchandise, including two mandatory respondents, Canfor and West Fraser.² The final weighted-

average dumping margins are listed below in the “Final Results of Review” section of this notice. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). For a detailed description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.³

Scope of the Order

The product covered by this review is softwood lumber from Canada. For a full description of the scope, see the Issues and Decision Memorandum.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. The requests for an administrative review of the companies identified in Appendix III were timely withdrawn within 90 days of the publication of the initiation notice for this review.⁴ As a result, Commerce is rescinding this review with respect to the companies in Appendix III in accordance with 19 CFR 351.213(d)(1).⁵

Additionally, pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review when there are no entries of subject merchandise during the POR for which liquidation is suspended. Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate calculated for the review period.⁶ Therefore, for an administrative review of a company to be conducted, there must be a suspended entry that Commerce can instruct and U.S. Customs and Border Protection (CBP) to liquidate at the antidumping duty assessment rate calculated for the POR.⁷

Fraser) and we have treated Canfor Corporation, Canadian Forest Products Ltd., and Canfor Wood Products Marketing Ltd., Canfor Fox Creek Ltd. and Canfor Whitecourt Ltd. (collectively, Canfor) as a single entities. See *Preliminary Results* PDM at 5–6.

³ See Memorandum, “Issues and Decision Memorandum for the Final Results of the 2022 Administrative Review of the Antidumping Duty Order on Certain Softwood Lumber Products from Canada,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Petitioner’s Letter, “Partial Withdrawal of Request for Administrative Review,” dated May 17, 2023.

⁵ Appendix III identifies all companies on which we have rescinded this review.

⁶ See 19 CFR 351.212(b)(1).

⁷ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F. Supp. 3d 1328, 1335–36 (CIT

In the *Preliminary Results*, we notified parties of our intent to rescind this administrative review, in part, with respect to Smartlam LLC because there were no suspended entries of subject merchandise produced or exported by these companies during the POR and invited interested parties to comment. No parties commented on our intent to rescind the review, in part. In the absence of any suspended entries of subject merchandise from Smartlam LLC during the POR, or any comment on this issue, we are rescinding the administrative review for Smartlam LLC, in accordance with 19 CFR 351.213(d)(3).⁸

Analysis of Comments Received

All issues raised in the case briefs filed in this administrative review are addressed in the Issues and Decision Memorandum. A list of the topics discussed in the Issues and Decision Memorandum is included in Appendix I of this notice. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum is also accessible on the internet at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties, we rescinded this review with regard to 66 companies for which all review requests were withdrawn, and have rescinded the review of Smartlam LLC, as we stated was our intent in the *Preliminary Results*. In addition, we revised the names of certain

2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that: “While the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended . . .”; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).

⁸ Appendix III identifies all companies on which we have rescinded this review.

¹ See *Certain Softwood Lumber Products from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 89 FR 8156 (February 6, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² As described in the *Preliminary Results* PDM, we have treated West Fraser Mills Ltd., Blue Ridge Lumber Inc., Manning Forest Products Ltd., and Sundre Forest Products Inc. (collectively, West

respondents as identified in the *Preliminary Results*, and made certain changes to the dumping margin calculations for Canfor and West Fraser. For a discussion of these changes, see the Issues and Decision Memorandum.

Rate for Non-Selected Companies

Generally, when calculating margins for non-selected respondents, Commerce looks to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act provides that when calculating the all-others rate, Commerce will exclude any zero and *de*

minimis weighted-average dumping margins, as well as any weighted-average dumping margins based on total facts available. Accordingly, Commerce’s usual practice has been to average the margins for selected respondents, excluding margins that are zero, *de minimis*, or based entirely on facts available.

In this review, we calculated a weighted-average dumping margin of 10.44 percent for Canfor and 5.32 percent for West Fraser. In accordance with section 735(c)(5)(A) of the Act, Commerce assigned the weighted-average of these two calculated

weighted-average dumping margins to the non-selected companies in these final results, based on their publicly ranged sales data.⁹ Accordingly, we have applied a rate of 7.80 percent to the non-selected companies.¹⁰ A list of all non-selected companies is included in Appendix II.

Final Results of Review

As a result of this administrative review, we are assigning the following weighted-average dumping margins to the manufacturers/exporters listed below for the POR, January 1, 2022, through December 31, 2022:

Exporter/producer	Weighted-average dumping margin (percent)
Canfor Corporation/Canadian Forest Products Ltd./Canfor Wood Products Marketing Ltd./Canfor Fox Creek Ltd./Canfor Whitecourt Ltd.	10.44
West Fraser Mills Ltd./Blue Ridge Lumber Inc./Manning Forest Products Ltd./Sundre Forest Products Inc.	5.32
Non-Selected Companies ¹¹	7.80

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

We intend to calculate importer- (or customer-) specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer’s (or customer’s) examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific rate is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce’s “reseller policy” will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the

intermediate company(ies) involved in the transaction.¹²

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated duties, where applicable. Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies under review will be equal to the weighted-average dumping margin listed above in the “Final Results of Review” section; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previously completed segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the final results for the most recent period in which that producer or exporter

participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, then the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the final results for the most recent period in which that producer participated; and (4) if neither the exporter nor the producer is a firm covered in this review or in any previously completed segment of this proceeding, then the cash deposit rate will be 6.04 percent *ad valorem*, the all-others rate established in the less than fair value investigation.¹³ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties, and/or an increase in the amount

⁹ See Memorandum, “Calculation of the Rate for Non-Selected Respondents,” dated concurrently with this notice. A list of the non-selected companies under review is included as Appendix II.
¹⁰ *Id.*

¹¹ See Appendix II of this notice for a list of the non-selected respondent companies.
¹² For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹³ See *Certain Softwood Lumber Products from Canada: Final Affirmative Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 82 FR 51806 (November 8, 2017).

of antidumping duties by the amount of countervailing duties.

Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h).

Dated: August 12, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Whether Commerce Used the Proper Market Price for Canfor's Wood Chip Sales
 - Comment 2: Whether Commerce Should Adjust the Reported Cost of Electricity at Canfor's Grand Prairie (PG) Sawmill
 - Comment 3: Whether Commerce Should Adjust the Reported Cost of Electricity at Canfor's Prince George Sawmill
 - Comment 4: Whether Commerce Properly Determined Canfor's General and Administrative (G&A) Expense Ratio
 - Comment 5: Whether Commerce Should Apply the Transactions Disregarded Provision to Canfor's Transactions With Affiliated Seed Suppliers
 - Comment 6: Whether Commerce Should Include Restructuring Costs Associated with the Mackenzie Mill
 - Comment 7: Whether Commerce Should Include Devaluation Losses in Canfor's G&A Calculation
 - Comment 8: Whether Commerce Should Deduct Countervailing Duties (CVD) from U.S. Price
 - Comment 9: Whether Commerce Should Rescind the Review of Companies for which all Review Requests Were Withdrawn

- Comment 10: Whether Commerce Should Revise the Names of Certain Respondents
- Comment 11: Whether Commerce Should Revise the Application of West Fraser's By-Product Offset
- Comment 12: Whether Commerce Should Adjust West Fraser's Log Prices
- Comment 13: Whether Commerce Should Adjust West Fraser's G&A Expenses for Inventory Valuation Loss
- Comment 14: Whether Commerce Double Counted Billing Adjustments
- Comment 15: Whether Commerce Correctly Applied Surrogate Costs
- Comment 16: Whether Commerce's Application of the Differential Pricing Analysis Is Contrary to Law and in Violation of the Assumptions Articulated in *Stupp*
- Comment 17: Whether West Fraser's Pricing Over the POR Was Inconsistent with the Targeted Dumping for Which Congress Authorized Commerce to Utilize the Average-to-Transaction (A–T) Method
- Comment 18: Whether Commerce Improperly Applied the A–T Methodology with Zeroing
- Comment 19: Whether Commerce Properly Applied its Differential Pricing Methodology to Address Targeted Dumping
- Comment 20: Whether Commerce's Use of Simple Average Standard Deviations in the Cohen's *d* Denominator Disregards Comparative Sizes of Test and Control Groups
- Comment 21: Whether Commerce's Methodology and Explanation for Calculating the Denominator of the *d* Coefficient Are Unreasonable
- Comment 22: Whether Commerce Erred in Finding a Pattern of U.S. Prices That Differ Significantly Among Purchasers, Regions, or Periods of Time
- Comment 23: Whether Commerce Failed to Consider Qualitative Factors in Determining Whether Prices Were Significant

VI. Recommendation

Appendix II

Non-Selected Exporters/Producers

1. 0752615 B.C Ltd; Frasersview Remanufacturing Inc; Frasersview Cedar Products¹⁴
2. 10104704 Manitoba Ltd.; Woodstock Forest Products¹⁵
3. 1074712 BC Ltd.; Quadra Cedar
4. 5214875 Manitoba Ltd.
5. Absolute Lumber Products Ltd.
6. Adwood Manufacturing Ltd.
7. AJ Forest Products Ltd.
8. Aler Forest Products Ltd.

¹⁴ "DBA" has been removed from the name 0752615 B.C Ltd; Frasersview Remanufacturing Inc; DBA Frasersview Cedar Products referred to in the *Preliminary Results*, at the request of CBP. See Issues and Decision Memorandum at Comment 10.

¹⁵ "O/A" has been removed from the name 10104704 Manitoba Ltd O/A Woodstock Forest Product referred to in the *Preliminary Results*, at the request of CBP. See Issues and Decision Memorandum at Comment 10.

9. Alpa Lumber Mills Inc.
10. Andersen Pacific Forest Products Ltd.
11. Antrim Cedar Corporation
12. Aquila Cedar Products Ltd.
13. Arbec Lumber Inc.; Arbec Bois Doeuvre Inc.
14. Aspen Pacific Industries Inc.
15. Aspen Planers Ltd.
16. B&L Forest Products Ltd.
17. B.B. Pallets Inc.; Les Palettes B.B.Inc.
18. Babine Forest Products Limited
19. Bakerview Forest Products Inc.
20. Barrette-Chapais Ltee
21. BarretteWood Inc.
22. Benoît & Dionne Produits Forestiers Ltee; Benoît & Dionne Forest Products Ltd.
23. Blanchet Multi Concept Inc.
24. Blanchette & Blanchette Inc.
25. Bois Aise de Montreal Inc.
26. Bois Bonsai Inc.
27. Bois Daaquam Inc.; Daaquam Lumber Inc.
28. Bois D'oeuvre Cedrico Inc.; Cedrico Lumber Inc.
29. Bois et Solutions Marketing SPEC, Inc.; SPEC Wood & Marketing Solution; SPEC Wood and Marketing Solutions Inc.
30. Bois Weedon Inc.
31. Boisaco Inc.
32. Boscus Canada Inc.
33. Boucher Bros. Lumber Ltd.
34. BPWood Ltd.
35. Bramwood Forest Inc.
36. Brink Forest Products Ltd.
37. Brunswick Valley Lumber Inc.
38. Burrows Lumber (CD) Ltd., Theo A. Burrows Lumber Company Limited
39. Busque & Laflamme Inc.
40. Canadian Bavarian Millwork & Lumber Ltd.
41. Canyon Lumber Company Ltd.
42. Carrier & Begin Inc.
43. Carrier Forest Products Ltd.
44. Carrier Lumber Ltd.
45. Carter Forest Products Inc.
46. Cedarland Forest Products Ltd.
47. Cedarline Industries Ltd.
48. Central Alberta Pallet Supply
49. Central Cedar Ltd.
50. Central Forest Products Inc.
51. Centurion Lumber Ltd.
52. Chaleur Forest Products Inc.
53. Chaleur Forest Products LP
54. Channel-ex Trading Corporation
55. Clair Industrial Development Corp. Ltd.
56. Clermond Hamel Ltee
57. CLG Enterprises Inc.
58. Columbia River Shake & Shingle Ltd.; Teal Cedar Products Ltd.;¹⁶ The Teal Jones Group¹⁷
59. Commonwealth Plywood Co. Ltd.
60. Conifex Fibre Marketing Inc.
61. Coulson Manufacturing Ltd.

¹⁶ "DBA" has been removed from the name Columbia River Shake & Shingle Ltd./Teal Cedar Products Ltd., DBA the Teal Jones Group referred to in the *Preliminary Results* at the request of CBP. See Issues and Decision Memorandum at Comment 10.

¹⁷ Because we are now treating the three companies as one entity for customs purposes, we have removed from the Automated Commercial Environment (ACE) module case number individual company case numbers for Teal Cedar Products Ltd. (A–122–857–224) and The Teal Jones Group (A–122–857–227) and have instructed CBP to enter all entries for all three companies under the ACE module case number A–122–857–349.

62. Cowichan Lumber Ltd.
63. CS Manufacturing Inc.; Cedarshed ¹⁸
64. CWP—Industriel Inc.
65. D & D Pallets Ltd.
66. Dakeryn Industries Ltd.
67. Decker Lake Forest Products Ltd.
68. Deep Cove Forest Products, Inc.
69. Delco Forest Products Ltd.
70. Delta Cedar Specialties Ltd.
71. Devon Lumber Co. Ltd.
72. Doubletree Forest Products Ltd.
73. Downie Timber Ltd.
74. Dunkley Lumber Ltd.
75. EACOM Timber Corporation
76. East Fraser Fiber Co. Ltd.
77. Edgewood Forest Products Inc.
78. ER Probyn Export Ltd.
79. Falcon Lumber Ltd.
80. Fontaine Inc.
81. Foothills Forest Products Inc.
82. Forest Products Mauricie LP; Societe en commandite Scierie Opitciwan; Resolute Growth Canada Inc.; Resolute FP Canada Inc.; Resolute-LP Engineered Wood Larouche Inc.; Resolute-LP Engineered Wood St-Prime Limited Partnership
83. Fort St. James Forest Products Limited Partnership
84. Fraser Specialty Products Ltd.
85. FraserWood Industries Ltd.
86. Furtado Forest Products Ltd.
87. Galloway Lumber Company Ltd.
88. Goldwood Industries Ltd.
89. Goodfellow Inc.
90. Gorman Bros. Lumber Ltd.
91. Greendale Industries Inc.
92. GreenFirst Forest Products (QC) Inc.
93. Greenwell Resources Inc.
94. Griff Building Supplies Ltd.
95. Groupe Crete Chertsey Inc.
96. Groupe Crete Division St-Faustin Inc.
97. Groupe Lebel Inc.
98. H.J. Crabbe & Sons Ltd.
99. Haida Forest Products Ltd.
100. Halo Sawmill, a division of Delta Cedar Specialties Ltd.; Halo Sawmill Manufacturing Limited Partnership
101. Hampton Tree Farms, LLC; Hampton Lumber Sales Canada ¹⁹
102. Hornepayne Lumber LP
103. Hy Mark Wood Products Inc.
104. Independent Building Materials Distribution Inc.
105. Interfor Corporation; Interfor Sales & Marketing Ltd.²⁰
106. Ivor Forest Products Ltd.
107. J&G Log Works Ltd.
108. J.D. Irving, Limited
109. J.H. Huscroft Ltd.
110. Jan Woodlands (2001) Inc.
111. Jasco Forest Products Ltd.
112. Jazz Forest Products Ltd.
113. Jhaji Lumber Corporation
114. Kalesnikoff Lumber Co. Ltd.
115. Kan Wood Ltd.
116. Kebois Ltee; Kebois Ltd.
117. Kelfor Industries Ltd.
118. Kermod Forest Products Ltd.
119. Keystone Timber Ltd.
120. La Crete Sawmills Ltd.
121. Lafontaine Lumber Inc.
122. Langevin Forest Products Inc.
123. Lecours Lumber Co. Limited
124. Leisure Lumber Ltd.
125. Les Bois d'oeuvre Beaudoin Gauthier Inc.
126. Les Bois Martek Lumber
127. Les Chantiers de Chibougamau Ltee; Les Chantiers de Chibougamau Ltd.
128. Les Industries P.F. Inc.
129. Les Produits Forestiers D&G Ltee; D&G Forest Products Ltd.
130. Leslie Forest Products Ltd.
131. Lignum Forest Products LLP
132. Linwood Homes Ltd.
133. Lonestar Lumber Inc.
134. Lulumco Inc.
135. Madera Forest Products INC
136. Magnum Forest Products Ltd.
137. Maibec Inc.
138. Manitou Forest Products Ltd.
139. Marcel Lauzon Inc.
140. Marwood Ltd.
141. Materiaux Blanchet Inc.
142. Mid Valley Lumber Specialties Ltd.
143. Midway Lumber Mills Ltd.
144. Mill & Timber Products Ltd.
145. Millar Western Forest Products Ltd.
146. Mirax Lumber Products Ltd.
147. Mobilier Rustique (Beauce) Inc.
148. Monterra Lumber Mills Limited
149. Morwood Forest Products Inc.
150. Multicetre Ltee
151. Murray Brothers Lumber Company Ltd.
152. Nakina Lumber Inc.
153. National Forest Products Ltd.
154. Nicholson and Cates Ltd.
155. Norsask Forest Products Inc.
156. Norsask Forest Products Limited Partnership
157. North American Forest Products Ltd. (located in Abbotsford, British Columbia)
158. North American Forest Products Ltd. (located in Saint-Quentin, New Brunswick)
159. North Enderby Timber Ltd.
160. Northland Forest Products Ltd.
161. Oakwood Manufacturing A Division of Weston Forest Products Inc.
162. Olympic Industries Inc.
163. Olympic Industries ULC
164. Oregon Canadian Forest Products; Oregon Canadian Forest Products Inc.
165. Pacific NorthWest Lumber Ltd.
166. Pacific Western Wood Works Ltd.
167. PalletSource Inc.
168. Parallel Wood Products Ltd.
169. Partap Forest Products Ltd.
170. Partap Industries
171. Peak Industries (Cranbrook) Ltd.
172. Phoenix Forest Products Inc.
173. Pine Ideas Ltd.
174. Pioneer Pallet & Lumber Ltd.
175. Porcupine Wood Products Ltd.
176. Portbec Forest Products Ltd.; Les Produits Forestiers Portbec Ltee
177. Power Wood Corp.
178. Precision Cedar Products Corp.
179. Produits Forestiers Petit Paris Inc.
180. Produits Matra Inc.
181. Promobois G.D.S. Inc.
182. R.A. Green Lumber Ltd.
183. Rembos Inc.
184. Rene Bernard Inc.
185. Rielly Industrial Lumber Inc.
186. River City Remanufacturing Inc.
187. S&R Sawmills Ltd.
188. San Group
189. San Industries Ltd.
190. Sawarne Lumber Co. Ltd.
191. Scierie Alexandre Lemay & Fils Inc.
192. Scierie St-Michel Inc.
193. Scierie West Brome Inc.
194. Scott Lumber Sales; Scott Lumber Sales Ltd.
195. Sechoirs de Beauce Inc.
196. Shakertown Corp.
197. Sigurdson Forest Products Ltd.
198. Silvaris Corporation
199. Sinclair Group Forest Products Ltd.
200. Skana Forest Products Ltd.
201. Skeena Sawmills Ltd.
202. Smart Wood Forest Products Ltd.
203. South Beach Trading Inc.
204. Specialiste du Bardeau de Cedre Inc.; Specialiste du Bardeau de Cedre Inc. (SBC)
205. Spruceland Millworks Inc.
206. Suncoast Industries Inc.
207. Sundher Timber Products Inc.
208. Surrey Cedar Ltd.
209. T.G. Wood Products Ltd.²¹
210. Taan Forest Limited Partnership; Taan Forest Products ²²
211. Taiga Building Products Ltd.
212. Tall Tree Lumber Company
213. Tenryu Canada Corporation
214. Terminal Forest Products Ltd.
215. The Wood Source Inc.
216. Tolko Industries Ltd.; Tolko Marketing and Sales Ltd.; Gilbert Smith Forest Products Ltd.
217. Top Quality Lumber Ltd.
218. Trans-Pacific Trading Ltd.

¹⁸ “dba” has been removed from the name CS Manufacturing Inc. (dba Cedarshed) referred to in the *Preliminary Results* at the request of CBP. See Issues and Decision Memorandum at Comment 10.

¹⁹ “dba” has been removed from the name Hampton Tree Farms, LLC (dba Hampton Lumber Sales Canada) referred to in the *Preliminary Results* at the request of CBP. See Issues and Decision Memorandum at Comment 10.

²⁰ In *Softwood Lumber from Canada AR4*, we determined that it was appropriate to treat Interfor Corporation and Interfor Sales & Marketing Ltd. as one entity. See *Certain Softwood Lumber Products from Canada: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2021*, 88 FR 50106 (August 1, 2023) (*Softwood Lumber from Canada AR4*), at Appendix II. Thus, we have removed from the ACE module case number for Interfor Sales & Marketing Ltd. (A–122–857–299) and have instructed CBP to enter all entries for Interfor Corporation and Interfor Sales & Marketing Ltd. under the ACE module case number

for Interfor Corporation and Interfor Sales & Marketing Ltd. (A–122–857–118)

²¹ The ACE module contains separate case numbers for T.G. Wood Products Ltd. (A–122–857–220) and TG Wood Products (A–122–857–360), which was caused by data entry errors and we have never treated T.G. Wood Products and TG Wood Products as separate companies; rather we named T.G. Wood Products Ltd. as the sole respondent in the first and second administrative reviews of this proceeding and TG Wood Products. See *Certain Softwood Lumber Products from Canada: Final Results of Antidumping Duty Administrative Review; 2017–2018*, 85 FR 76519 (November 30, 2020); *Certain Softwood Lumber Products from Canada: Final Results of Antidumping Duty Administrative Review; 2019*, 86 FR 68471 (December 2, 2021); and *Softwood Lumber from Canada AR4*. We have removed TG Wood Products (A–122–857–360) from the module and instructed CBP to enter all entries under the case number A–122–857–220.

²² “aka” has been removed from the name Taan Forest Limited Partnership (aka Taan Forest Products) referred to in at the request of CBP. See Issues and Decision Memorandum at Comment 10.

219. Triad Forest Products Ltd.
 220. Twin Rivers Paper Co. Inc.
 221. Tyee Timber Products Ltd.
 222. Universal Lumber Sales Ltd.
 223. Usine Sartigan Inc.
 224. Vaagen Fibre Canada ULC
 225. Vancouver Specialty Cedar Products Ltd.
 226. Vanderhoof Specialty Wood Products Ltd.
 227. Vanderwell Contractors (1971) Ltd.
 228. Visscher Lumber Inc.
 229. W.I. Woodtone Industries Inc.
 230. Waldun Forest Product Sales Ltd.
 231. West Bay Forest Products Ltd.
 232. West Coast Panel Cutters
 233. Western Forest Products Inc.
 234. Western Lumber Sales Limited
 235. Westminster Industries Ltd.
 236. Weston Forest Products Inc.
 237. Westrend Exteriors Inc
 238. Weyerhaeuser Co.
 239. White River Forest Products L.P.
 240. Woodline Forest Products Ltd.
 241. Woodtone Specialties Inc.

Appendix III

List of Companies Rescinded From the Review

1. 54 Reman
 2. 9224–5737 Quebec Inc.; A.G. Bois²³
 3. AA Trading Ltd.
 4. All American Forest Products Inc.
 5. Anglo American Cedar Products Ltd.; Anglo-American Cedar Products Ltd.
 6. Bardobec Inc.
 7. Best Quality Cedar Products Ltd.
 8. Campbell River Shake & Shingle Co. Ltd.
 9. Canada Pallet Corp.
 10. Canasia Forest Industries Ltd.
 11. Careau Bois inc.
 12. CarlWood Lumber Ltd.²⁴
 13. Cedar Island Forest Products Ltd.
 14. Cedar Valley Holdings Ltd.
 15. Cedarcoast Lumber Products
 16. CHAP Alliance, Inc.
 17. CNH Products Inc.
 18. Coast Clear Wood Ltd.
 19. Coast Mountain Cedar Products Ltd.
 20. Comox Valley Shakes Ltd. (2019); Comox Valley Shakes (2019) Ltd.²⁵
 21. CWP—Montreal Inc.
 22. DH Manufacturing Inc.
 23. Direct Cedar Supplies Ltd.
 24. Distribution Rioux Inc.
 25. Elrod Cartage Ltd.
 26. Glandell Enterprises Inc.
 27. Goldband Shake & Shingle Ltd.
 28. GreenFirst Forest Products Inc.
 29. Groupe Lignarex Inc.
 30. Hudson Mitchell & Sons Lumber Inc.
 31. Imperial Cedar Products Ltd.

32. Intertran Holdings Ltd.; Richmond Terminal²⁶
 33. Island Cedar Products Ltd.
 34. Les Bardeaux Lajoie Inc.
 35. Les Bois Traites M.G. Inc.
 36. Les Produits Forestiers Sitka Inc.; Sitka Forest Products Inc.²⁷
 37. Lumber Assets Holding LP
 38. Mainland Sawmill, a division of Terminal Forest Products
 39. Metrie Canada Ltd.
 40. Modern Terminal Ltd.
 41. Nagaard Sawmill Ltd.
 42. Nickel Lake Lumber
 43. NSC Lumber Ltd.
 44. Pacific Coast Cedar Products Ltd.
 45. Pacific Lumber Remanufacturing Inc.
 46. Pacific Pallet Ltd.
 47. Pat Power Forest Products Corporation
 48. Rick Dubois
 49. S&W Forest Products Ltd.
 50. Sapphire Lumber Company
 51. Smartlam LLC
 52. Sonora Logging Ltd.
 53. Source Forest Products
 54. South Coast Reman Ltd.; Southcoast Millwork Ltd.
 55. South Fraser Container Terminals
 56. Star Lumber Canada Ltd.
 57. Suncoah Custom Lumber Ltd.
 58. Surplus G Rioux
 59. Swiftwood Forest Products Ltd.
 60. T&P Trucking Ltd.
 61. Temrex Forest Products LP; Produits Forestiers Temrex SEC.
 62. Valley Cedar 2 Inc.
 63. Watkins Sawmills Ltd.
 64. Western Timber Products, Inc.
 65. Winton Homes Ltd.
 66. Woodstock Forest Products
 67. WWW Timber Products Ltd.

[FR Doc. 2024–18443 Filed 8–16–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; and Final Determination of No Shipments; 2021–2022; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published in the **Federal Register** of July 5, 2024, notice of the final results of the 2021–2022 administrative review of the antidumping duty (AD) order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China). In that notice, Commerce incorrectly identified the companies which it found were not entitled to a separate rate.

FOR FURTHER INFORMATION CONTACT: Dakota Potts or Paola Aleman Ordaz, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0223 and (202) 482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 5, 2024, Commerce published in the **Federal Register** notice of the final results of the 2021–2022 administrative review of the AD order on solar cells from China.¹ In that notice, Commerce incorrectly identified the companies which it found were not entitled to a separate rate. Commerce preliminarily found that only four companies did not qualify for a separate rate.² Commerce did not change that determination in the final results of the review. Yet, in the final results of review **Federal Register** notice, Commerce inadvertently stated that: {i}n the *Preliminary Results*, Commerce found that 35 companies for which a review was initiated did not establish their eligibility for a separate rate. No parties contested this finding (see discussion regarding the Yingli single entity below). As such, we continue to determine these 35 companies identified in Appendix III are part of the China-wide entity.³

In the *Preliminary Results*, Commerce did not determine that the 31 companies that it incorrectly added to Appendix III

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; and Final Determination of No Shipments; 2021–2022*, 89 FR 55562 (July 5, 2024) (*Final Results*).

² See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Administrative Review, and Preliminary Determination of No Shipments; 2021–2022*, 89 FR 457, 458–59 (January 4, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

³ See *Final Results*, 89 FR at 55563.

²³ “aka” has been removed from the name 224–5737 Quebec Inc. (aka A.G. Bois) referred to in the Preliminary Results, at the request of CBP. See Issues and Decision Memorandum at Comment 10.

²⁴ CarlWood Lumber Ltd. is referred to in the ACE module as Carl Wood Lumber Ltd.

²⁵ “AKA” has been removed from the name Comox Valley Shakes Ltd. (2019); AKA Comox Valley Shakes (2019) Ltd. referred to in the Preliminary Results, at the request of CBP. See Issues and Decision Memorandum at Comment 10.

²⁶ “dba” has been removed from the name Intertran Holdings Ltd. (dba Richmond Terminal) referred to in the Preliminary Results at the request of CBP. See Issues and Decision Memorandum at Comment 10.

²⁷ “aka” has been removed from the name Les Produits Forestiers Sitka Inc. (aka Sitka Forest Products Inc.) referred to in the Preliminary Results, at the request of CBP. See Issues and Decision Memorandum at Comment 10.

of the *Final Results* are ineligible for a separate rate. Rather, in the *Preliminary Results*, Commerce determined that the 31 companies did not have suspended entries of subject merchandise during the period of review (POR).⁴ Commerce did not change its preliminary decision with respect to these 31 companies in the final results of review. Therefore, the following corrections are required.

Correction

In the **Federal Register** of July 5, 2024, in FR Doc 2024–14763, on page 55563, in the first column, under the heading “China-Wide Entity,” correct the first sentence to read: “In the *Preliminary Results*, Commerce found that four companies for which a review was initiated did not establish their eligibility for a separate rate.”⁵ In addition, on page 55563, in the first column, under the heading “China-Wide Entity,” correct the third sentence to read: “As such, we continue to determine these four companies identified in Appendix III are part of the China-wide entity.” Further, on page 55564, in the third column, under the heading “Appendix III Companies Determined To Be Part of the China-Wide Entity,” correct the list to include only the following companies:

1. Anji DaSol Solar Energy Science & Technology Co., Ltd.
2. Maodi Solar Technology (Dongguan) Co., Ltd.
3. Shenzhen Yingli New Energy Resources Co., Ltd.; Baoding Jiasheng Photovoltaic Technology Co. Ltd.; Baoding Tianwei Yingli New Energy Resources Co., Ltd.; Beijing Tianneng Yingli New Energy Resources Co., Ltd.; Hainan Yingli New Energy Resources Co., Ltd.; Hengshui Yingli New Energy Resources Co., Ltd.; Lixian Yingli New Energy Resources Co., Ltd.; Tianjin Yingli New Energy Resources Co., Ltd.; and Yingli Energy (China) Company Limited (Yingli Energy China).
4. Wuxi Suntech Power Co., Ltd.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(h)(2) and 19 CFR 351.221(b)(5).

Dated: August 13, 2024.

Ryan Majerus,
Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.
[FR Doc. 2024–18516 Filed 8–16–24; 8:45 am]

BILLING CODE 3510–DS–P

⁴ See *Preliminary Results*, 89 FR at 4548.

DEPARTMENT OF COMMERCE
International Trade Administration

[A–428–847]

Forged Steel Fluid End Blocks From Germany: Final Results of the Antidumping Duty Administrative Review; 2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain producers/exporters subject to this administrative review made sales of forged steel fluid end blocks (fluid end blocks) from Germany at less than normal value during the period of review (POR) January 1, 2022, through December 31, 2022.

DATES: Applicable August 19, 2024.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3148.

SUPPLEMENTARY INFORMATION:

Background

On February 7, 2024, Commerce published in the **Federal Register** the preliminary results of this administrative review.¹ We invited interested parties to comment on the *Preliminary Results*. A summary of the events that occurred since Commerce published the *Preliminary Results*, as well as a full discussion of the issues raised by parties for these final results, are discussed in the Issues and Decision Memorandum.² Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). On July 23, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.³ The deadline for the final results of this administrative review is now August 9, 2024.

¹ See *Forged Steel Fluid End Blocks from Germany: Preliminary Results of Antidumping Duty Administrative Review and Rescission, in Part*; 2022, 89 FR 8409 (February 7, 2024) (*Preliminary Results*).

² See Memorandum, “Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Forged Steel Fluid End Blocks from Germany; 2022,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

Scope of the Order

The merchandise subject to the *Order* is fluid end blocks from Germany.⁴ For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are listed in an appendix to this notice and addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Commerce evaluated the comments in the case and rebuttal briefs and record evidence and made no changes from the *Preliminary Results*. For a discussion of the comments, see the Issues and Decision Memorandum.

Final Results of Review

Commerce determines that the following estimated weighted-average dumping margins exist for the period January 1, 2022, through December 31, 2022:

Producer/exporter	Weighted-average dumping margin (percent)
BGH Edelstahl Siegen GmbH	19.96

Disclosure

Normally, Commerce will disclose the calculations performed in connection with the final results to parties in this proceeding within five days of the date of public announcement, in accordance with 19 CFR 351.224(b). However, because we have made no changes from the *Preliminary Results*, there are no new calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess,

⁴ See *Forged Steel Fluid End Blocks from the Federal Republic of Germany and Italy: Amended Final Antidumping Duty Determination for the Federal Republic of Germany and Antidumping Duty Orders*, 86 FR 7528 (January 29, 2021) (*Order*).

antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For BGH Edelstahl Siegen GmbH (BGH), the sole producer/exporter subject to this review, whose weighted-average dumping margin is above *de minimis*, we calculated importer-specific *ad valorem* duty assessment rates by dividing the total amount of antidumping duties calculated for the examined sales to each importer by the value of the examined sales to that importer pursuant to 19 CFR 351.212(b)(1).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for BGH will be that established in these final results; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the investigation of sales at less than fair value (LTFV), but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 4.79 percent, the all-others rate established in the LTFV investigation.⁵ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement

of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties has occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Notification Regarding Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: August 9, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes from the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Foreign Like Product
 - Comment 2: Exclusion of Home Market Sales Designed and Produced According to Specific Customer Drawings and Specifications for the Manufacture of Non-FEB Products
 - Comment 3: Importer-Specific Assessment Rates
- VI. Recommendation

[FR Doc. 2024-18493 Filed 8-16-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership (MEP) Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: National Institute of Standards and Technology's (NIST) Manufacturing Extension Partnership (MEP) Advisory Board will hold an open meeting on September 16, 2024, from 10 a.m. to 5 p.m. eastern time.

DATES: The MEP Advisory Board will meet on September 16, 2024, from 10 a.m. to 5 p.m. eastern time. The meeting will be open to the public. Attendees are required to register in advance to attend as instructed below.

ADDRESSES: The meeting will be held in person at the Manufacturing Advocacy and Growth Network (MAGNET) office: 1800 East 63rd Street, Cleveland, OH 44103. For instructions on how to attend the meeting, please see the *Procedures for Attendance and Public Comment* section of this notice.

FOR FURTHER INFORMATION CONTACT:

Monica Claussen, DFO, 100 Bureau Drive, M/S 4800, Gaithersburg, MD 20899-4800; email: mepab@nist.gov, phone number: 301-975-5020.

SUPPLEMENTARY INFORMATION: The MEP Advisory Board is authorized under 15 U.S.C. 278k(m). The Hollings Manufacturing Extension Partnership Program (Program) is a unique program consisting of Centers in all 50 States and Puerto Rico with partnerships at the Federal, State and local levels. By statute, the MEP Advisory Board provides the NIST Director with: (1) advice on the activities, plans and policies of the Program; (2) assessments of the soundness of the plans and strategies of the Program; and (3) assessments of current performance against the plans of the Program.

Background information on the MEP Advisory Board is available at <http://www.nist.gov/mep/about/advisory-board.cfm>.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.*, notice is hereby given that the MEP Advisory Board will hold an open meeting on the date and time in the **DATES** section and will be open to the public. The meeting agenda will include an update on MEP programmatic operations as well as current activities related to the current MEP National Network 2023–2027

⁵ See Order, 86 FR at 7530.

Strategic Plan. The agenda may change to accommodate Board business. The final agenda will be posted on the MEP Advisory Board website at <http://www.nist.gov/mep/about/advisory-board>.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's agenda for this meeting are requested to submit written comments via email in advance of the meeting. Approximately ten minutes will be reserved for public comments that were submitted in advance. These will be read on a first-come, first-served basis. Comments received will be shared to the Board by the Director of MEP, pending time available during the Board meeting. Please note that all submitted comments, including those not read during the meeting, will be treated as public documents and will be made available for public inspection via the meeting minutes. The Board will not consider or deliberate on comments from the public during this period. All those wishing to submit a comment, must submit their comment via email to mepab@nist.gov by 5 p.m. eastern time, Friday, September 6, 2024.

Procedures for Attendance and Public Comment

All wishing to attend the MEP Advisory Board meeting must submit their name, organization, email address and phone number to Monica Claussen (mepab@nist.gov or 301-975-5020) no later than Friday, September 6, 2024, 5 p.m. eastern time. In person seating is limited and will be available on a first-come, first-served basis. Detailed instructions on how to attend the meeting will be sent to registered attendees.

Tamiko Ford,

NIST Executive Secretariat.

[FR Doc. 2024-18449 Filed 8-16-24; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees—Board of Visitors, National Defense University

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the Board of Visitors, National Defense University (BoV NDU).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the DoD, 703-692-5952.

SUPPLEMENTARY INFORMATION: The BoV NDU's charter is being renewed in accordance with chapter 10 of title 5, United States Code (U.S.C.) (commonly known as "the Federal Advisory Committee Act"), and title 41 of the Code of Federal Regulations (CFR chapter 102-3.50(d). The charter and contact information for the BoV NDU's Designated Federal Officer (DFO) are found at <https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation>.

The BoV NDU provides the Secretary of Defense and Deputy Secretary of Defense ("the DoD Appointing Authority"), or the Chairman of the Joint Chiefs of Staff with independent advice and recommendations on matters pertaining to the National Defense University specifically on matters pertaining to educate joint warfighters and other national security leaders in critical thinking and the creative application of military power to inform national strategy and globally integrated operations, under conditions of disruptive change, in order to prevail in war, peace, and competition. The BoV NDU is composed of no more than 12 members. Individual members are appointed according to DoD policy and procedures and serve a term of service of one-to-four years with annual renewals. One member will be appointed as Chair of the BoV NDU. No member, unless approved according to DoD policy and procedures, may serve more than two consecutive terms of service on the BoV NDU, or serve on more than two DoD Federal advisory committees at one time.

BoV NDU members who are not full-time or permanent part-time Federal civilian officers or employees, or active-duty members of the Uniformed Services, are appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. BoV NDU members who are full-time or permanent part-time Federal civilian officers or employees, or active-duty members of the Uniformed Services are appointed pursuant to 41 CFR 102-3.130(a), to serve as regular government employee members.

All members of the BoV NDU are appointed to provide advice based on their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official BoV NDU-

related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements about the BoV NDU's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the BoV NDU. All written statements shall be submitted to the DFO for the BoV NDU, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: August 14, 2024.

Patricia L. Toppings,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 2024-18542 Filed 8-16-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2024-SCC-0101]

Agency Information Collection Activities; Comment Request; School Pulse Panel 2025-26 (SPP 2025-26) Preliminary Field Activities

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 18, 2024.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2024-SCC-0101. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance

Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 4C210, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: School Pulse Panel 2025–26 (SPP 2025–26) Preliminary Field Activities.

OMB Control Number: 1850–0975.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 6,339.

Total Estimated Number of Annual Burden Hours: 2,525.

Abstract: The School Pulse Panel (SPP) is a data collection that was originally designed to collect voluntary responses from a nationally representative sample of public schools to better understand how schools, students, and educators were responding to the ongoing stressors of the coronavirus pandemic. The School Pulse Panel is conducted by the National Center for Education Statistics (NCES), part of the Institute of Education Sciences (IES), within the

United States Department of Education. Initially, the purpose of the study was to collect extensive data on issues brought to light by the COVID–19 pandemic, as well as other important education-related issues that could inform data-driven policy decisions, in U.S. public schools. Due to the immediate need to collect pandemic-era information from schools as described in Executive Order 14000, an emergency clearance was issued to develop and field the first several monthly collections of the SPP in 2021 and a full review of the SPP data collection was performed in 2022 (OMB# 1850–0969). SPPs innovative design and timely dissemination of findings have been used and cited frequently among Department of Education senior leadership, the White House Domestic Policy Council, the USDAs Food and Nutrition Service, the Centers for Disease Control and Prevention, Congressional deliberations, and the media. The growing interest from stakeholders resulted in a request for funding to create an established NCES quick-turnaround data collection vehicle to become a mainstay for NCES. Funding for a mainstay collection was approved in late 2022, and NCES conducted a new collection during the 2023–24 school year (OMB# 1850–0975).

The School Pulse Panel study is one of the few reliable, nationally representative, quick-turnaround studies that produces data on U.S. public schools. The sample design for the 2025–26 collection will roughly be the same as the 2024–25 collection with 4,000 public schools randomly selected to an initial sample and 4,000 in a reserve sample. It is expected these schools will come from roughly 3,000 districts. The goal is national representation from about 1,200 responding schools each month in order to report out national estimates. School staff will be asked to provide requested data monthly during the 2025–26 school year. This approach provides the ability to collect detailed information on various topics while also assessing changes over time for items that are repeated from year to year. Given the demand for data collection, the content of the survey is expected to change monthly. For the 2025–26 school year, the survey may ask school staff about a wide range of topics, including but not limited to staffing; learning recovery; absenteeism; usage of federal funds; and overall principal experiences.

This package includes preliminary activities, including contacting and obtaining research approvals from public school districts with an

established research approval process (special contact districts) where applicable; notifying sampled schools and districts of their selection for the survey; and inviting them to complete a short Screener Survey to establish points of contact. In spring of 2025, a clearance for main study data collection activities that will include instruments for the first quarter of collections will be submitted for 60-day and 30-day public comment. Subsequent quarterly content submissions will be submitted for 30-day public comment.

This request is to conduct the SPP 2025–26 preliminary activities. Substantial edits and additional materials may be added to this package after the 60-day public comment period is complete, in time for the subsequent 30-day public comment period that will begin Fall 2024. Materials for SPP are cleared under two OMB Number sequences. Materials for SPP 2022 and SPP 2024–25 were cleared under OMB# 1850–0969, while SPP 2023–24 and now SPP 2025–26 are cleared under OMB# 1850–0975.

Dated: August 13, 2024.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–18490 Filed 8–16–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Request for Information Regarding Interregional and Offshore Wind Transmission

AGENCY: Grid Deployment Office, U.S. Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The Inflation Reduction Act (IRA) provides funding to the Secretary of Energy (Secretary) to support convening relevant stakeholders to address the development of interregional electricity transmission and transmission of electricity that is generated by offshore wind, and to conduct planning, modeling, and analysis regarding interregional electricity transmission and transmission of electricity generated by offshore wind. Transmission development is an important priority to address reliability issues within the national electrical grid and to improve the flow of new energy generation, including offshore wind, both between regions and within regions to meet national clean energy goals. The U.S.

Department of Energy (DOE) Grid Deployment Office (GDO) is issuing this RFI to seek input from all parties regarding issues related to the planning and development of electric transmission facilities to service offshore wind power generating stations on the U.S. West Coast.

DATES: Written comments and information are requested on or before October 3, 2024.

ADDRESSES: Interested parties may submit comments to OSWTransmission@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information may be sent to OSWTransmission@hq.doe.gov. Questions about the RFI may be addressed to Katherine Segal, (301) 820-2892; OSWTransmission@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 2022, President Biden signed the Inflation Reduction Act (IRA).¹ The IRA makes the single largest investment in climate and energy in American history, enabling America to tackle the climate crisis and putting the United States on a pathway to achieving the Biden-Harris Administration's climate goals, including a net-zero economy by 2050. Within section 50153, the IRA provides funding for the Department to support convening "relevant stakeholders to address the development of interregional electricity transmission and transmission of electricity that is generated by offshore wind," and to "conduct planning, modeling, and analysis regarding interregional electricity transmission and transmission of electricity generated by offshore wind."²

II. Purpose

The purpose of this RFI is to gather information about siting offshore wind electricity transmission infrastructure from recreational and commercial ocean users, offshore wind or maritime industries, government entities (Tribal, Federal, State, county, or local government agencies), and the public. As part of this RFI, DOE is primarily interested in feedback on the transmission infrastructure associated with offshore wind and not the offshore wind generation turbines themselves. Transmission infrastructure includes electrical cables, cable corridors, substations, transformers, converters,

and other associated equipment located both offshore and onshore.

Information provided as part of this RFI will be used by GDO and the Bureau of Ocean Energy Management (BOEM), U.S. Department of the Interior, as part of the West Coast Offshore Wind Transmission Convening Series. Feedback gathered through this RFI, and the Convening Series will support GDO and BOEM in the development of West Coast offshore wind transmission recommendations. These recommendations will not include any regulatory actions or siting decisions. For examples of the types of recommendations that DOE and BOEM might develop for the West Coast, please see *An Action Plan for Offshore Wind Transmission Development in the U.S. Atlantic Region* (www.energy.gov/gdo/atlantic-offshore-wind-transmission-action-plan).

III. Request for Information

Planning and siting transmission infrastructure for offshore wind energy involves several authorities (e.g., BOEM, Federal Energy Regulatory Commission (FERC), independent system operators and regional transmission organizations, public utility commissions, State departments of energy, State departments of fish and wildlife, etc.) tasked with planning, locating, designing, and approving new or upgraded electric transmission facilities. Transmission associated with offshore wind energy generation will need to be sited both offshore and onshore. Understanding the constraints related to the shared use of new or existing transmission rights-of-way will allow transmission planning entities and siting authorities to make decisions using the best available information and science. DOE is considering recommendations to support planning entities and siting authorities in the decision-making process. In particular, DOE seeks to understand transmission siting constraints both offshore and onshore, environmental and energy justice priorities, community impacts, information gaps, and technical assistance needs through the following questions:

1. What considerations need to be accounted for when siting transmission for offshore wind energy generation in offshore locations on the West Coast?
 - a. For the considerations identified, what information is currently available?
 - b. For the considerations identified, do any lack existing data sources to rely on? If no data sources are available, are there existing methods to collect, survey, or otherwise measure the characteristics?

2. What considerations need to be accounted for when siting transmission for offshore wind energy generation in onshore locations on the West Coast?

- a. For the considerations identified, what information is currently available?
 - b. For the considerations identified, do any lack existing data sources to rely on? If no data sources are available, are there existing methods to collect, survey, or otherwise measure the characteristics?

3. What environmental justice and energy justice issues should inform how transmission is sited and implemented on the West Coast for offshore wind?

4. What specific topics about offshore wind transmission siting, technology, and benefits are not well understood by yourself or your organization?

- a. What types of educational materials or research products, if any, would improve your understanding and awareness of these topics?

- b. What format should these resources be distributed in (e.g., written, webinar, meetings, website content, technical report, etc.)?

- c. How should information from ocean co-users³ be integrated into educational materials or research products?

- d. What specific data or information can be provided by ocean co-users for the purpose of filling knowledge gaps? How should information from ocean co-users be disseminated or shared?

5. What forms of assistance (technical assistance or otherwise) would support efficient and equitable siting and development of offshore wind transmission infrastructure?

6. Do you have any additional information or thoughts you want to provide about transmission infrastructure related to offshore wind energy?

IV. Response Guidelines

Responses to the RFI must be provided in writing and submitted electronically to OSWTransmission@hq.doe.gov no later than 5:00 p.m. EDT on October 3, 2024. Include "RFI for Offshore Wind Transmission" in the subject line of the email. Responses must be provided as a Microsoft Word (.docx) or PDF attachment to the email, and no more than 10 pages in length, 12-point font, 1-inch margins. It is recommended that attachments with file sizes exceeding 25MB be compressed (i.e., zipped) to ensure message delivery. Please do not feel obligated to submit long, formal responses. If you or your

¹ Inflation Reduction Act, Public Law 117-169 (August 16, 2022).

² Inflation Reduction Act, Public Law 117-169 (August 16, 2022).

³ Ocean co-users include, but are not limited to, fishing organizations, maritime shipping industry, or other commercial and recreational ocean users.

organization are resource-constrained (time, staff, etc.) and only have the capacity to share short or informal notes or thoughts, DOE still wants to hear from you.

For ease of replying and to aid categorization of your responses, please copy and paste the RFI questions, including the question numbering, and use them as a template for your response. Respondents may answer as many or as few questions as they wish. DOE will not respond to individual submissions. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed.

Respondents are requested to provide the following information at the start of their response to this RFI:

- Company/institution/agency/person name.
- Company/institution/agency/person contact information.

This RFI is solely a request for information and is not a grant announcement. DOE is not accepting applications, nor will DOE reimburse any of respondents' costs in preparing a response. Any information obtained as a result of this RFI is intended to be used by the Federal Government on a non-attribution basis for planning and strategy development; this RFI does not constitute a formal announcement for applications or abstracts. Your response to this notice will be treated as information only. DOE will review and consider all responses in its formulation of program strategies for the identified materials of interest that are the subject of this request. Respondents are advised that DOE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind DOE to any further actions related to these topics.

Sensitive Indigenous Knowledge and Cultural Information

The intent of this RFI is not to solicit any sensitive information about cultural, traditional, sacred resources, or Traditional Indigenous Knowledge that is not already in the public domain. Therefore, respondents are strongly advised NOT to include any sensitive information about cultural, traditional, or sacred resources or Traditional Indigenous Knowledge that respondents would not want publicly released. Tribal Nations should be aware that responses to this RFI can be subject to a Freedom of Information Act (FOIA) request and may result in the disclosure of information to the public. If a Tribal

Nation chooses to provide information that the Tribal Nation believes to be confidential and exempt by law from public disclosure, the Tribal Nation should submit via email two well marked copies: one marked "information exempt from disclosure" and one marked "information subject to disclosure" as described in the section below. If a Tribal Nation wants to discuss, among other topics related to this RFI, concerns about sensitive resources, the Tribal Nation is encouraged to request tribal consultation. Tribal Nations can find an explanation on the scope of Federal agencies' authorities to limit the disclosure of information about Tribal resources to the public on pages 25 to 29 of the "Best Practices Guide for Federal Agencies Regarding Tribal and Native Hawaiian Sacred Sites."⁴

Confidential Business Information

Because information received in response to this RFI may be used to inform future programs and/or otherwise be made available to the public, respondents are strongly advised NOT to include any information in their responses that might be considered confidential business information pursuant to 10 CFR 1004.11.

Any person submitting information believed to be confidential and exempt by law from public disclosure should submit via email two well marked copies: one copy of the document marked "Confidential Information" including all the information believed to be confidential, and one copy of the document marked "Non-Confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination. The copy containing confidential information must include a cover sheet marked as follows: identifying the specific pages containing confidential, proprietary, or privileged information: "Notice of Restriction on Disclosure and Use of Data: Pages [list applicable pages] of this response may contain confidential, commercial, or financial information that is exempt from public disclosure." The Government may use or disclose any information that is not appropriately marked or otherwise restricted, regardless of source. In addition, (1) the header and footer of every page that contains confidential, proprietary, or privileged information must be marked as follows: "Contains Confidential,

⁴ https://www.bia.gov/sites/default/files/media/document/sacred_sites_guide_508_2023-1205.pdf.

Commercial, or Financial Information Exempt from Public Disclosure"; and (2) every line and paragraph containing proprietary, privileged, or trade secret information must be clearly marked with [[double brackets]] or highlighting.

Signing Authority

This document of the Department of Energy was signed on August 7, 2024, by Maria D. Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. The administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 13, 2024.

Treena V. Garrett,

*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2024–18395 Filed 8–16–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DOE/National Science Foundation Nuclear Science Advisory Committee

AGENCY: Office of Science, Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, September 12, 2024; 9 a.m.–5 p.m. EDT.

ADDRESSES: Hilton Washington DC/ Rockville Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, Maryland 20852, (301) 468–1100.

Information to participate virtually can be found on the NSAC website closer to the meeting at: <https://science.osti.gov/np/nsac/meetings>.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, Committee Manager, NSAC, (301) 903–0536, Email: Brenda.May@science.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and

guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda:

- Call to Order, Introductions, Review of the Agenda
- Perspective from Department of Energy and National Science Foundation
- Updates from the Department of Energy and National Science Foundation’s Nuclear Physics Offices
- Communicating the Science Talks on Electron Ion Collider/Neutrinoless Double Beta Decay
- Presentation of the Committee of Visitors Charge
- NSAC Business/Discussions
- Public Comment

Public Participation: The meeting is open to the public. Please check <https://science.osti.gov/np/nsac/meetings> for updates and information on how to view the meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May at Brenda.May@science.doe.gov. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule. If you have any questions or need a reasonable accommodation under the Americans with Disabilities Act for this event, please send your request to Brenda L. May at Brenda.May@science.doe.gov two weeks but no later than 48 hours, prior to the event. Closed captions will be enabled.

Minutes: The minutes of the meeting will be available for review on the U.S.

Department of Energy’s Office of Nuclear Physics website at <https://science.osti.gov/np/nsac/meetings>.

Signing Authority: This document of the Department of Energy was signed on August 13, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 14, 2024.

Treena V. Garrett,
Federal Register Liaison Officer, U.S. Department of Energy.
[FR Doc. 2024–18504 Filed 8–16–24; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the

communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. Each filing may be viewed on the Commission’s website at <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. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited: P–14861–002	8–06–2024	FERC Staff ¹
Exempt: (NONE).		

¹ Emailed and written correspondence dated 07/24/2024 from the Confederated Tribes and Bands of the Yakama Nation.

Dated: August 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18526 Filed 8–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–966–000.

Applicants: National Grid LNG, LLC.

Description: § 4(d) Rate Filing; 2024–08–09 NGLNG Operational Purchase and Sale Tariff Filing to be effective 9/9/2024.

Filed Date: 8/9/24.

Accession Number: 20240809–5124.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: RP24–967–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing; 20240812 Carlton Flow Obligation to be effective 11/1/2024.

Filed Date: 8/12/24.

Accession Number: 20240812–5043.

Comment Date: 5 p.m. ET 8/26/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/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: <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: August 12, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18467 Filed 8–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24–25–000]

Commission Information Collection Activities (FERC–725X); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC 725X, Mandatory Reliability Standards: Voltage and Reactive (VAR) Standards. There were no changes made to the reporting requirements for this information collection.

DATES: Comments on the collection of information are due October 18, 2024.

ADDRESSES: You may submit copies of your comments (identified by Docket No. IC24–25–000) by one of the following methods:

Electronic filing through <https://www.ferc.gov>, is preferred.

- **Electronic Filing:** Documents must be filed in acceptable native applications and print-to-PDF, not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by other delivery methods:

- **Mail via U.S. Postal Service Only:** Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- **All other delivery services:** Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: <https://www.ferc.gov>.

www.ferc.gov. For user assistance, contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <https://www.ferc.gov>.

FOR FURTHER INFORMATION CONTACT:

Doug Reimel may be reached by email at DataClearance@FERC.gov, telephone at (202) 502–6461.

SUPPLEMENTARY INFORMATION:

Title: FERC 725X, Mandatory Reliability Standards: Voltage and Reactive (VAR) Standards.

OMB Control No.: 1902–0278.

Type of Request: Three-year extension of the FERC–725X information collection requirements with no changes to the current reporting requirements.

Abstract: Pursuant to section 215 of the Federal Power Act (FPA),¹ North American Electric Reliability Corporation (NERC) established the Voltage and Reactive (“VAR”) group of Reliability Standards, which consists of two continent-wide Reliability Standards, VAR–001–5 and VAR–002–4.1. NERC conducts periodic reviews of Reliability Standards in accordance with Section 317 of the NERC Rules of Procedure and Section 13 of the NERC Standard Processes Manual. In accordance with these authorities and the NERC *Reliability Standards Development Plan: 2017–2019*, NERC recently completed Project 2016–EPR–02 Enhanced Periodic Review of Voltage and Reactive Reliability Standards. This project conducted a periodic review of mandatory and enforceable Reliability Standards VAR–001–4.1 (Voltage and Reactive Control)² and VAR–002–4 (Generator Operation for Maintaining Network Schedules).³ These two standards were designed to maintain voltage stability on the Bulk-Power System, protect transmission, generation, distribution, and customer equipment, and support the reliable operation of the Bulk-Power System. Voltage stability is the ability of a power

¹ 16 U.S.C. 824o (2012).

² The Commission approved Reliability Standard VAR–001–4 (Voltage and Reactive Control) on August 1, 2014. See *North American Electric Reliability Corp.*, Docket No. RD14–11–000 (Aug. 1, 2014) (delegated letter order). The Commission approved errata version VAR–001–4.1 on November 13, 2015. See *North American Electric Reliability Corp.*, Docket No. RD15–6–000 (Nov. 13, 2015) (delegated letter order).

³ The Commission approved Reliability Standard VAR–002–4, which clarified the applicability of the VAR–002 standard to dispersed generation resources, on May 29, 2015. See *North American Electric Reliability Corp.*, 151 FERC ¶ 61,186 (May 29, 2015).

system to maintain acceptable voltage levels throughout the system under normal operating conditions and following a disturbance. Failure to maintain acceptable voltage levels (*i.e.*, voltage levels become too high or too low) may cause violations of System Operating Limits (“SOLs”) and Interconnection Reliability Operating Limits (“IROLs”), result in damage to Bulk-Power System equipment, and thereby threaten the reliable operation of the Bulk-Power System. The number of manhours for VAR–001–5 and VAR–002–4.1 will remain the same, but the type of job responsibilities to follow the requirements will be split between an engineer and record-keeper, instead of just an engineer. This results in a decrease of the cost of compliance and record-keeping for these two standards.

Reliability Standard VAR–001–5

This Reliability Standard requires Transmission Operators to:

- Specify a system-wide voltage schedule (which is either a range or a target value with an associated tolerance band) as part of its plan to operate within SOLs and IROLs, and to provide the voltage schedule to its Reliability Coordinator and adjacent Transmission Operators upon request (Requirement R1);
- Schedule sufficient reactive resources to regulate voltage levels (Requirement R2);
- Operate or direct the operation of devices to regulate transmission voltage and reactive flows (Requirement R3);
- Develop a set of criteria to exempt generators from certain requirements under Reliability Standard VAR–002–

4.1 related to voltage or Reactive Power schedules, automatic voltage regulations, and notification (Requirement R4);

- Specify a voltage or Reactive Power schedule (which is either a range or a target value with an associated tolerance band) for generators at either the high or low voltage side of the generator step-up transformer, provide the schedule to the associated Generator Operator, direct the Generator Operator to comply with that schedule in automatic voltage control mode, provide the Generator Operator the notification requirements for deviating from the schedule, and, if requested, provide the Generator Operator the criteria used to develop the schedule (Requirement R5); and
- Communicate step-up transformer tap changes, the time frame for completion, and the justification for these changes to Generator Owners (Requirement R6).

Reliability Standard VAR–002–4.1

This Reliability Standard includes an information collection activity for “Requirement R1” and a separate information collection activity for “Requirements R2 through R6.”

This Reliability Standard requires Generator Operators to:

- Operate each of its generators connected to the interconnected transmission system in automatic voltage control mode or in a different control mode as instructed by the Transmission Operator, unless the Generator Operator (1) is exempted pursuant to the criteria developed under VAR–001–5, Requirement R4, or (2) makes certain notifications to the

Transmission Operator specifying the reasons it cannot so operate (Requirement R1);

- Maintain the Transmission Operator’s generator voltage or Reactive Power schedule, unless the Generator Operator (1) is exempted pursuant to the criteria developed under VAR–001–5, Requirement R4, or (2) complies with the notification requirements for deviations as established by the Transmission Owner pursuant to VAR–001–5, Requirement R5 (Requirement R2);

- Notify the Transmission Operator of a change in status of its voltage controlling device within 30 minutes, unless the status is restored within that time period (Requirement R3); and

- Notify the Transmission Operator of a change in reactive capability due to factors other than those described in VAR–002–4.1, Requirement R3 within 30 minutes unless the capability has been restored during that time period (Requirement R4).

- Provide information on its step-up transformers and auxiliary transformers within 30 days of a request from the Transmission Operator or Transmission Planner (Requirement R5); and

- Comply with the Transmission Operator’s step-up transformer tap change directives unless compliance would violate safety, an equipment rating, or applicable laws, rules or regulations (Requirement R6).

Type of Respondents: Generator owners and transmission operators.

*Estimate of Annual Burden:*⁴ The Commission estimates the annual public reporting burden for the information collection as:

FERC–725X, MANDATORY RELIABILITY STANDARDS: VOLTAGE AND REACTIVE (VAR) STANDARDS

	Number of respondents ⁵	Annual number of responses per respondent	Total number of responses	Average burden & cost per response ⁶	Total annual burden hours & total annual cost	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
VAR–001–5 Compliance and record-keeping.	165 (TOP)	1	165	160 hrs.; \$11,307.20	26,400 hrs.; \$1,865,688	\$11,307.20
VAR–002–4.1 Compliance and record-keeping.	1,028 (GOP)	1	1,028	200 hrs.; \$14,134	205,600 hrs.; \$14,529,752	14,134
Total .....	.....	.....	1,193	.....	232,000 hrs.; \$16,395,440 .....	.....

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper

performance of the functions of the Commission, including whether the information will have practical utility;

(2) the accuracy of the agency’s estimate of the burden and cost of the collection of information, including the validity of

⁴ The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

⁵ TOP = transmission operator; GOP = generator operators. These values were derived from the NERC Compliance data of April 16, 2024, using only unique United States registered entities.

⁶ The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2024, for 75% of the average

of an Electrical Engineer (17 – 2071) \$79.31/hr., $79.31 \times .75 = 59.4825$ (\$59.48-rounded) (\$59.48/hour) and 25% of an Information and Record Clerk (43 – 4199) \$44.74/hr., $44.74 \times .25 = 11.185$ (\$11.19 rounded) (\$11.19/hour), for a total (\$59.48 + \$11.19 = \$70.67/hour).

the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: August 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-18525 Filed 8-16-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24-507-000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on August 1, 2024, Transcontinental Gas Pipe Line Company, LLC (Transco), Post Office Box 1396, Houston, Texas 77251, filed in the above referenced docket, a prior notice request pursuant to sections 257.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and Transco's blanket certificate issued in Docket No. CP82-426-000, for authorization to abandon an existing 2.19-mile-long, 12-inch-diameter natural gas pipeline and appurtenant facilities, all located in Potter County, Pennsylvania (Wharton Extension Lateral Abandonment Project). Transco states that these facilities have not been used during the previous 12 months and therefore, the project will allow Transco to reduce long-term costs associated with the required maintenance of the facilities that are no longer needed for transportation service. The estimated cost for the project is \$2.13 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

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>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing,

printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Georgia Clark, Regulatory Analyst, Sr., Transcontinental Gas Pipe Line Company, LLC, Post Office Box 1396, Houston, Texas 77251, or by email at georgia.clark@williams.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on October 11, 2024. How to file protests, motions to intervene, and comments is explained below.

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.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the

time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is October 11, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is October 11, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before October 11, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–507–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–507–000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Georgia Clark, Regulatory Analyst, Sr., Transcontinental Gas Pipe Line Company, LLC, Post Office Box 1396, Houston, Texas 77251, or Georgia.Clark@williams.com. Any subsequent submissions by an intervenor must be served on the

applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Dated: August 12, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18465 Filed 8–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC24–110–000.

Applicants: Daybreak Solar, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Daybreak Solar, LLC.

Filed Date: 8/9/24.

Accession Number: 20240809–5190.

Comment Date: 5 p.m. ET 8/30/24.

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

Docket Numbers: EG24–255–000.

Applicants: Harquahala Sun 1, LLC.

Description: Harquahala Sun 1, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/13/24.

Accession Number: 20240813–5088.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: EG24–256–000.

Applicants: Harquahala Sun 2, LLC.
Description: Harquahala Sun 2, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/13/24.

Accession Number: 20240813–5089.

Comment Date: 5 p.m. ET 9/3/24.

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

Docket Numbers: ER24–2757–000.

Applicants: Occidental Power Marketing, L.P.

Description: Compliance filing: Supplement to Notice of Change in Status and Market-Based Rate Tariff to be effective 4/30/2022.

Filed Date: 8/12/24.

Accession Number: 20240812–5152.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2758–000.

Applicants: Occidental Power Services, Inc.

Description: Compliance filing: Supplement to Notice of Change in Status and Market-Based Rate Tariff to be effective 4/30/2022.

Filed Date: 8/12/24.

Accession Number: 20240812–5153.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2759–000.

Applicants: Occidental Chemical Corporation.

Description: Compliance filing: Supplement to Notice of Change in Status and Market-Based Rate Tariff to be effective 4/30/2022.

Filed Date: 8/12/24.

Accession Number: 20240812–5157.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2760–000.

Applicants: OTCF, LLC.

Description: Compliance filing: Supplement to Notice of Change in Status and Market-Based Rate Tariff to be effective 4/30/2022.

Filed Date: 8/12/24.

Accession Number: 20240812–5158.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2761–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1790R1 Occidental Chemical Corporation LGIA Cancellation to be effective 11/5/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5021.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2762–000.

Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2024–08–13_SA 4333

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

ATC-Degas ESA to be effective 8/14/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5049.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2763–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Construction Agreement WYOPO (RS No. 788) to be effective 10/13/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5056.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2764–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2024–08–13 SA 4324 DPC-North Hills Wind Project GIA (J1769) to be effective 8/6/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5074.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2765–000.

Applicants: Consolidated Edison Company of New York, Inc., New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Consolidated Edison Company of New York, Inc. submits tariff filing per 35.13(a)(2)(iii): NYISO-Con Edison Joint 205: Amnd TPIA for Segment B Dover PAR, SA 2734 (CEII) to be effective 8/2/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5080.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2766–000.

Applicants: ISO New England Inc., Fitchburg Gas and Electric Light Company.

Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): FG&E; Request for Updated Depreciation Rates to be effective 7/1/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5106.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2767–000.

Applicants: Pontotoc Wind, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 10/13/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5125.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2768–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4305 WAPA/City of Watertown, SD Interconnection Agreement to be effective 8/13/2024.

Filed Date: 8/13/24.

Accession Number: 20240813–5135.

Comment Date: 5 p.m. ET 9/3/24.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH24–14–000.

Applicants: LS Power Development, LLC.

Description: LS Power Development, LLC submits FERC 65–B Notice of Change in Fact to Waiver Notification.

Filed Date: 8/9/24.

Accession Number: 20240809–5188.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: TX24–4–000.

Applicants: Elisabeth Solar, LLC.

Description: Application for Order Directing Transmission Service and Interconnection of Facilities of Elisabeth Solar, LLC.

Filed Date: 8/12/24.

Accession Number: 20240812–5179.

Comment Date: 5 p.m. ET 9/3/24.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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: August 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18523 Filed 8–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–968–000.

Applicants: Saavi Energy Solutions, LLC, JPMorgan Bank, N.A.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of Saavi Energy Solutions, LLC, et al.

Filed Date: 8/12/24.

Accession Number: 20240812–5094.

Comment Date: 5 p.m. ET 8/26/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP24–935–001.

Applicants: Ruby Pipeline, L.L.C.

Description: Tariff Amendment: RP 2024–08–08 RP24–935 Amendment to be effective 9/1/2024.

Filed Date: 8/8/24.

Accession Number: 20240808–5112.

Comment Date: 5 p.m. ET 8/20/24.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <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: August 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-18522 Filed 8-16-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24-26-000; ER24-2690-000; ER22-2931-000.

Applicants: PJM Interconnection, L.L.C., PJM Interconnection, L.L.C., PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submit a compliance filing in Docket No. ER24-2690-000 to the 12/20/2023 Commission Order.

Filed Date: 8/2/24.

Accession Number: 20240802-5172.

Comment Date: 5 p.m. ET 8/22/24.

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

Docket Numbers: ER24-1268-002.

Applicants: The Dayton Power and Light Company, PJM Interconnection, L.L.C.

Description: Compliance filing: The Dayton Power and Light Company submits tariff filing per 35: AES Ohio Compliance Revising OATT, Att. H-15A in ER24-1268 to be effective 4/17/2024.

Filed Date: 8/12/24.

Accession Number: 20240812-5086.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24-2003-001.
Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Deficiency Response—Nomination of Candidate LTCRs for FSEs and GFA Carve Outs to be effective 7/14/2024.

Filed Date: 8/12/24.

Accession Number: 20240812-5123.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24-2447-001.
Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Deficiency Response and Request for Shortened Comment Period in ER24-2447 to be effective 8/31/2024.

Filed Date: 8/9/24.

Accession Number: 20240809-5153.

Comment Date: 5 p.m. ET 8/23/24.

Docket Numbers: ER24-2746-000.

Applicants: Portland General Electric Company.

Description: § 205(d) Rate Filing: PGE OATT Att C Amendment NAESB WEQ-023 to be effective 10/9/2024.

Filed Date: 8/9/24.

Accession Number: 20240809-5167.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER24-2747-000.

Applicants: Southern Illinois Power Cooperative.

Description: Petition for Limited Waiver of Southern Illinois Power Cooperative.

Filed Date: 8/5/24.

Accession Number: 20240805-5173.

Comment Date: 5 p.m. ET 8/26/24.

Docket Numbers: ER24-2748-000.

Applicants: El Paso Electric Company.

Description: § 205(d) Rate Filing: Service Agreement No. 406, Unexecuted EPE and Mesquite PV I, LLC LGIA to be effective 7/30/2024.

Filed Date: 8/9/24.

Accession Number: 20240809-5172.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER24-2751-000.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 3862&3863 SWEPCO/ETEC/Rayburn Early Term Ag/Letter Ag Cancel to be effective 5/25/2023.

Filed Date: 8/12/24.

Accession Number: 20240812-5018.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24-2753-000.

Applicants: Entergy Arkansas, LLC.

Description: § 205(d) Rate Filing: Long Lake Solar LBA Agreement to be effective 8/14/2024.

Filed Date: 8/12/24.

Accession Number: 20240812-5031.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24-2754-000.

Applicants: Western Maine Renewables, LLC.

Description: Baseline eTariff Filing: Western Maine Renewables, LLC MBR Tariff to be effective 10/12/2024.

Filed Date: 8/12/24.

Accession Number: 20240812-5050.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24-2755-000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Pintail Pass BESS 2nd A&R Generation Interconnection Agreement to be effective 7/18/2024.

Filed Date: 8/12/24.

Accession Number: 20240812-5095.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24-2756-000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Sunscape Renewable Energy Generation Interconnection Agreement to be effective 7/18/2024.

Filed Date: 8/12/24.

Accession Number: 20240812-5101.

Comment Date: 5 p.m. ET 9/3/24.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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: August 12, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-18466 Filed 8-16-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2645-176]

Erie Boulevard Hydropower, L.P.; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection.

a. *Type of Application*: New Major License.

b. *Project No.*: 2645–176.

c. *Date Filed*: July 30, 2024.

d. *Applicant*: Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project*: Beaver River Hydroelectric Project (project).

f. *Location*: On the Beaver River in Lewis and Herkimer Counties, New York.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Mr. Steven P. Murphy, Director—U.S. Licensing, Brookfield Renewable, 33 West 1st Street South, Fulton, NY 13069; telephone at (315) 598–6130; email at stephen.murphy@brookfieldrenewable.com.

i. *FERC Contact*: Nicholas Ettema, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (312) 596–4447; email at nicholas.ettema@ferc.gov.

j. The application is not ready for environmental analysis at this time.

k. *Project Description*: The project consists of the following eight developments from upstream to downstream: the 8-megawatt (MW) Moshier Development, the 5.81–MW Eagle Development, the 12.145–MW Soft Maple Development, the 2.8–MW Effley Development, the 1.5–MW Elmer Development, the 4.645–MW Taylorville Development, the 2.21–MW Belfort Development, and the 4.8–MW High Falls Development.

Project Facilities

Moshier Development

The Moshier Development consists of an approximately 1,104-foot-long dam (Moshier Dam) that includes the following sections: (1) an approximately 181-foot-long earthen dike; (2) an approximately 654-foot-long earthen embankment with a 32-foot-long gatehouse and a 28-foot-long intake structure with two sluice gates and two trashracks with 1-inch clear bar spacing; and (3) a 269-foot-long concrete section that includes a sluice gate, a 200-foot-long ogee spillway with 2-foot-high flashboards that have a crest elevation of 1,641.48 feet North American Vertical Datum of 1988 (NAVD 88), and a non-overflow section. The dam creates an impoundment that has a surface area of 340 acres at 1,641.48 feet NAVD 88.

From the impoundment, water flows through the intake structure to an approximately 1.9-mile-long penstock with a surge tank. The penstock bifurcates into two approximately 70-

foot-long penstocks that each conveys water to a 4–MW vertical Francis turbine-generator, for a total installed capacity of 8 MW. The turbine-generators are located in a 70-foot-wide, 34-foot-long powerhouse. Water is discharged from the turbines to a 30-foot-long tailrace. The development creates an approximately 2.1-mile-long bypassed reach of the Beaver River.

The generators are connected to the regional electric grid by two 20-foot-long, 6.6-kilovolt (kV) overhead generator lead lines and a 6.6/115-kV step-up transformer.

The project recreation facilities include: (1) a hand-carry boat portage route with an impoundment take-out site, a 2-mile-long portage trail, and a put-in site approximately 780 feet downstream of the powerhouse; (2) a parking area for 10 vehicles adjacent to the portage put-in site; (3) a parking area for 6 vehicles adjacent to the dam; and (4) a boat put-in site approximately 600 feet downstream of the dam for whitewater flow release events.

The minimum and maximum hydraulic capacities of the powerhouse are 100 and 660 cubic feet per second (cfs), respectively. The average annual energy production of the development from 2010 through 2020, was 38,761 megawatt-hours (MWh).

Eagle Development

The Eagle Development consists of a concrete dam (Eagle Dam) that includes the following sections: (1) a 62.7-foot-long headgate structure that includes four stoplog gates and four trashracks with 1-inch clear bar spacing; (2) a non-overflow section; (3) an approximately 10-foot-long section with a sluice gate; (4) a 183-foot-long ogee spillway with 1-foot-high flashboards that have a crest elevation of 1,426.65 feet NAVD 88; and (5) a 29-foot-long section with two low-level gates. The dam creates an impoundment that has a surface area of 138 acres at 1,426.65 feet NAVD 88.

From the impoundment, water flows through the headgate structure to a 540-foot-long forebay canal with a 150-foot-long non-overflow section and a stoplog gate. From the forebay canal, water enters an intake structure that includes three sluice gates, a trashrack with 1.25-inch clear bar spacing, and a 32.7-foot-long gatehouse. From the intake structure, water enters a 2,725-foot-long penstock that conveys water to three 1.35–MW horizontal Francis turbine-generators and a 1.79–MW horizontal Francis turbine-generator, for a total installed capacity of 5.81 MW. The turbine-generators are located in a 62.7-foot-wide, 86.7-foot-long powerhouse. Water is discharged from the turbines to

an approximately 300-foot-long tailrace. The development creates an approximately 3,854-foot-long bypassed reach of the Beaver River.

The generators are connected to the regional electric grid by a 290-foot-long, 2.3-kV overhead generator lead lines and a 2.3/115-kV step-up transformer.

The project recreation facilities include: (1) a hand-carry boat portage route with an impoundment take-out site, a 0.7-mile-long portage trail, and a put-in site downstream of the powerhouse; (2) a fishing access trail to the bypassed reach; and (3) a boat put-in site downstream of the dam for whitewater flow release events.

The minimum and maximum hydraulic capacities of the powerhouse are 85 and 571 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 32,298 MWh.

Soft Maple Development

The Soft Maple Development includes: (1) a dam with (a) an 81.5-foot-long intake structure with six sluice gates and trashracks with 1-inch clear bar spacing; and (b) a gatehouse; (2) a 720-foot-long earthen dam (Terminal Dam); (3) a 173-foot-long concrete dam with (a) a 144-foot-long ogee spillway with 1.5-foot-high flashboards that have a crest elevation of 1,289.9 feet NAVD 88; and (b) two sluice gates; (4) a 910-foot-long earthen dam (Diversion Dam) that includes a 10-foot-long intake structure with a butterfly gate and trashrack; and (5) five earthen dikes. The dams and dikes create an impoundment that has a surface area of 400 acres at 1,289.9 feet NAVD 88.

From the impoundment, water flows through the 81.5-foot-long intake structure to two 530-foot-long penstocks that provide water to a 6.045–MW and a 6.1–MW vertical Francis turbine-generator, for a total installed capacity of 12.145 MW. The turbine-generators are located in an 82-foot-wide, 50-foot-long powerhouse. Water is discharged from the turbines to a tailrace. The development creates an approximately 8,340-foot-long bypassed reach of the Beaver River.

From the impoundment, water also flows through the intake structure of the Diversion Dam to a 316.4-foot-long diversion tunnel and a 263.9-foot-long pipe that conveys minimum flows to the bypassed reach.

The generators are connected to the regional electric grid by two 1,300-foot-long, 6.6-kV overhead generator lead lines and a 6.6/115-kV step-up transformer.

The project recreation facilities include: (1) a hand-carry boat portage

route with an impoundment take-out site, a portage trail, and a put-in site approximately 400-feet downstream of the powerhouse, with a parking area; (2) a campground adjacent to the impoundment, with 10 tent sites, an access road, a parking area, a car-top boat launch, and four restrooms; (3) seven primitive campsites on islands within the impoundment; (4) a picnic area; and (5) a 150-foot-long trail to a scenic overlook with a view of the bypassed reach and a parking area for four vehicles.

The minimum and maximum hydraulic capacities of the powerhouse are 320 and 1,720 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 39,899 MWh.

Effley Development

The Effley Development consists of a dam (Effley Dam) that includes the following sections: (1) a 35.75-foot-long south concrete intake structure with a sluice gate and a trashrack with 1-inch clear bar spacing; (2) a 38.5-foot-long north concrete intake structure with three sluice gates and a trashrack with 1-inch clear bar spacing; (3) a 647-foot-long concrete section that includes a south non-overflow section, a 69.7-foot-long south ogee spillway with a crest elevation of 1,162.95 feet NAVD 88, a section with a stoplog gate and two low-level sluice gates, a 360.5-foot-long north ogee spillway with a crest elevation of 1,162.95 feet NAVD 88 and a gate, and a north non-overflow section; and (4) a 629-foot-long earthen embankment. The dam creates an impoundment that has a surface area of 340 acres at 1,162.95 feet NAVD 88.

From the impoundment, water enters through the south intake structure to a 148-foot-long penstock that provides water to a 1.44-MW vertical Francis turbine-generator located in a 44-foot-long, 42.5-foot-wide south concrete and masonry powerhouse. Water enters through the north intake structure to: (1) an 87-foot-long penstock that provides water to a 0.56-MW horizontal Francis turbine-generator; and (2) two 87-foot-long penstocks that each provides water to a 0.4-MW horizontal Francis turbine-generator, located in a 53-foot-long, 58-foot-wide north concrete and masonry powerhouse. Overall, the development has an installed capacity of 2.8 MW. Water is discharged from the powerhouses to a tailrace. The development creates an approximately 580-foot-long bypassed reach of the Beaver River.

The generators are connected to the regional electric grid by two 45-foot-long, 2.3-kV overhead generator lead

lines and a 2.3/115-kV step-up transformer.

The project recreation facilities include a hand-carry boat portage route that includes an impoundment take-out site, a 600-foot-long portage trail, and a put-in site downstream of the dam.

The minimum and maximum hydraulic capacities of the north powerhouse are 135 and 470 cfs, respectively. The minimum and maximum hydraulic capacities of the south powerhouse are 200 and 450 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 15,997 MWh.

Elmer Development

The Elmer Development consists of a 326.5-foot-long concrete dam (Elmer Dam) that includes the following sections: (1) a 39-foot-long intake structure with four sluice gates and two trashracks with 1-inch clear bar spacing; (2) an 18.25-foot-long non-overflow section; (3) a 122-foot-long west ogee spillway with a crest elevation of 1,107.96 NAVD 88; (4) a 25-foot-long section with a gate; (5) a 113.75-foot-long east ogee spillway with a crest elevation of 1,107.96 NAVD 88; and (6) an 8.5-foot-long non-overflow section. The dam creates an impoundment that has a surface area of 34 acres at 1,107.96 feet NAVD 88.

From the impoundment, water flows through the intake structure to two 0.75-MW vertical Francis turbine-generators located in a 33.7-foot-long, 78.3-foot-wide powerhouse, for a total installed capacity of 1.5 MW. Water is discharged from the turbines to an approximately 110-foot-long tailrace. The development creates an approximately 260-foot-long bypassed reach of the Beaver River.

The generators are connected to the regional electric grid by a 55-foot-long, 2.3-kV overhead generator lead line and a 2.3/23-kV step-up transformer.

The project recreation facilities include a hand-carry boat portage route with an impoundment take-out site, a 400-foot-long portage trail, and a put-in site downstream of the dam.

The minimum and maximum hydraulic capacities of the powerhouse are 80 and 700 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 11,264 MWh.

Taylorville Development

The Taylorville Development consists of a concrete dam (Taylorville Dam) that includes the following sections: (1) a south dam section that includes a 348-foot-long ogee spillway with 0.8-foot-high flashboards that have a crest

elevation of 1,070.46 feet NAVD 88; and (2) a north dam section that includes: (a) a 29.1-foot-long section with two sluice gates; (b) a 119.5-foot-long ogee spillway with 0.8-foot-high flashboards that have a crest elevation of 1,070.46 feet NAVD 88; (c) a section with a sluice gate; and (d) a non-overflow section that includes a 33-foot-long intake structure with three sluice gates and a trashrack with 1-inch clear bar spacing. The dam creates an impoundment that has a surface area of 170 acres at 1,070.46 feet NAVD 88.

From the impoundment, water flows through the intake structure to a 2,725-foot-long penstock with a surge tank. The penstock conveys water to two 1.1-MW, one 1.245-MW, and one 1.2-MW horizontal Francis turbine-generator, for a total installed capacity of 4.645 MW. The turbine-generators are located in a 92.7-foot-long, 62.5-foot-wide powerhouse. Water is discharged from the turbines to a tailrace. The development creates an approximately 4,540-foot-long bypassed reach of the Beaver River.

The generators are connected to the regional electric grid by a 55-foot-long, 2.3-kV overhead generator lead line, a 2.3/23-kV step-up transformer, and a 200-foot-long, 23-kV transmission line.

The project recreation facilities include: (1) a hand-carry boat portage route that includes an impoundment access site, a 2-mile-long portage trail, and a put-in site downstream of the powerhouse; (2) a walking trail that begins near the impoundment access site; (3) a picnic area near the boat take-out site with picnic tables, grills, and a parking area for 10 vehicles; and (4) a picnic area near the boat put-in site.

The minimum and maximum hydraulic capacities of the powerhouse are 100 and 720 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 24,204 MWh.

Belfort Development

The Belfort Development consists of a dam (Belfort Dam) that includes the following sections: (1) an approximately 206-foot-long section that includes a 161.1-foot-long ogee spillway with 2-foot-high flashboards that have a crest elevation of 965.64 feet NAVD 88; a surface-level gate; and a low-level gate; (2) an approximately 250-foot-long non-overflow section; (3) an approximately 88-foot-long non-overflow c section; and (4) a 60-foot-long intake structure with two sluice gates and two trashracks with 1-inch clear bar spacing. The dam creates an impoundment that has a surface area of 50 acres at 965.64 feet NAVD 88.

From the impoundment, water flows through the intake structure to a 52-foot-long penstock that provides water to a 0.4-MW horizontal Francis turbine-generator and a 0.64-MW double horizontal Francis turbine-generator, and a 52-foot-long penstock that provides water to a 1.17-MW double Francis turbine-generator, for a total installed capacity of 2.21 MW. The turbine-generators are located in a 39-foot-long, 78-foot-wide powerhouse. Water is discharged from the turbines to a 400-foot-long tailrace. The development creates an approximately 900-foot-long bypassed reach of the Beaver River.

The generators are connected to the regional electric grid by a 110-foot-long, 2.3-kV overhead generator lead line and a 2.3/23-kV step-up transformer.

The project recreation facilities include: (1) a hand-carry boat portage route with an impoundment take-out site, an 800-foot-long portage trail, and a put-in site downstream of the powerhouse; and (2) a fishing platform adjacent to the dam that provides anglers with access to the impoundment.

The minimum and maximum hydraulic capacities of the powerhouse are 80 and 800 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 11,267 MWh.

High Falls Development

The High Falls Development includes: (1) a concrete dam (High Falls Dam) that includes the following sections: (a) a non-overflow section that includes a 64.25-foot-long intake structure with four sluice gates, four trashracks with 1-inch clear bar spacing, and a gatehouse; (b) a 204-foot-long ogee spillway with a crest elevation of 914.82 NAVD 88; (c) a 49.42-foot-long section with a non-operational stoplog gate and a low-level outlet gate; (d) a 445.9-foot-long ogee spillway with a crest elevation of 914.82 NAVD 88 and a gate; and (e) a 294.2-foot-long non-overflow section; and (2) two 100-foot-long dikes. The dam and dikes create an impoundment that has a surface area of 145 acres at the spillway crest elevation of 914.82 feet NAVD 88.

From the impoundment, water flows through the intake structure to a 605-foot-long penstock that provides water to three 1.6-MW vertical Francis turbine-generators located in a 34.4-foot-long, 99-foot-wide powerhouse, for a total installed capacity of 4.8 MW. Water is discharged from the turbines to a 15.5-foot-long tailrace. The development creates an approximately 1,108-foot-long bypassed reach of the Beaver River.

The generators are connected to the regional electric grid by two 75-foot-long, 2.3-kV underground generator lead lines and a 2.3/23-kV step-up transformer.

The project recreation facilities include: (1) a hand-carry boat portage route that includes an impoundment take-out site, a portage trail, and a put-in site downstream of the powerhouse; (2) five campsites on the islands in the impoundment; and (3) a picnic area with picnic tables and grills, and an associated parking area for about 10 vehicles.

The minimum and maximum hydraulic capacities of the powerhouse are 150 and 900 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 30,877 MWh.

Project Operation

The current license requires the implementation of a Streamflow and Headpond Elevation Monitoring Plan that includes minimum and maximum impoundment elevation limits for each of the developments, and the following impoundment fluctuation limits: (1) for the Moshier, Soft Maple, and Effley Developments, 1 foot from May 1 through June 30, and 1.5 feet from July 1 through April 30 under normal conditions; and 3 feet during low flow conditions; (2) 1 foot at the Eagle, Elmer, Taylorville, and Belfort Developments; and (3) for the High Falls Development, 1.5 feet under normal conditions and 3 feet during low flow conditions. The Streamflow and Headpond Elevation Monitoring Plan requires the following minimum flows or inflow, whichever is less, to the bypassed reaches: (1) 45 cfs at the Moshier and Eagle Developments; (2) 35 cfs at the Soft Maple Development; (3) 20 cfs at the Effley, Elmer, and Belfort Developments; (4) 60 cfs at the Taylorville Development; and (5) 30 cfs at the High Falls Development. The current license also requires a minimum base flow of 250 cfs downstream of the project. The current license requires the implementation of a Low Flow Augmentation Plan that includes withdrawing water from the impoundments when inflow is less than the minimum base flow.

Erie releases minimum bypassed reach and fish conveyance flows through the following structures: (1) at the Moshier Development, Erie uses the sluice gate in the concrete section of the dam, a wooden flume, and a 3-foot-deep plunge pool approximately 80 feet downstream of the sluice gate; (2) at the Eagle Development, Erie uses the sluice gate and a 53-foot-long timber flume; (3) at the Soft Maple Development, Erie

uses the two sluice gates in the 173-foot-long dam; (4) at the Effley Development, Erie uses the gate in the north spillway and a plunge pool immediately downstream of the gate; (5) at the Elmer Development, Erie uses the gate in the 25-foot-long section of the dam; (6) at the Taylorville Development, Erie uses the sluice gates in the north dam section and a plunge pool immediately downstream of the sluice gates; (7) at the Belfort Development, Erie uses the surface-level gate; and (8) at the High Falls Development, Erie uses the gate at the 445.9-foot-long spillway. Erie also uses the 263.9-foot-long pipe that extends from the diversion tunnel of the Soft Maple Development, and the low-level outlet gate of the High Falls Development to release minimum flows.

The current license also requires the implementation of a Recreation Plan that requires operation and maintenance of the project recreation facilities and the following annual whitewater releases: (1) one 4-hour release of 400 cfs from the Moshier Dam; (2) five 4-hour releases of 200 cfs from the Taylorville Dam; and (3) five 4-hour releases of 200 cfs from the Eagle Dam.

The current license also requires the implementation of a Cultural Resources Management Plan to protect historic properties.

The average annual energy production of the project (*i.e.*, Moshier, Eagle, Soft Maple, Effley, Elmer, Taylorville, Belfort, and High Falls Developments) from 2010 through 2020, was 204,567 megawatt-hours.

Erie is not proposing to add any new project facilities. However, Erie proposes to revise the project boundary around the impoundments to follow the normal maximum impoundment elevations and add/remove land that is occupied by or adjacent to project facilities, which would result in a net increase of land and water in the project boundary from 2,394 acres under the current license to 2,414.1 acres under the proposed license.

Erie proposes to continue operating the project as required under the current license and generally described above, including the requirements for minimum flows, impoundment levels, and the Low Flow Augmentation Plan. In addition, Erie proposes to develop a new minimum flow and fish conveyance plan, streamflow and headpond monitoring plan, and historic properties management plan. Erie also proposes to: (1) maintain a fishing access area at the Moshier Development as a project recreation facility; (2) install trail markers along the trail that is on the shoreline of the bypassed reach of the Taylorville Development; (3) and

continue to provide annual whitewater releases at the Eagle, Moshier, and Taylorville Developments.

l. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (e.g., license application) 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 (P-2645). For assistance, contact FERC at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

You may also register online at <https://ferconline.ferc.gov/ferconline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

n. *Procedural Schedule*: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter and Request Additional Information—August 2024
Notice of Acceptance—January 2025

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: August 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-18527 Filed 8-16-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2333-094]

Rumford Falls Hydro LLC; Notice of Availability of Draft Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Rumford Falls Hydroelectric Project, located on the Androscoggin River in the Town of Rumford, Oxford County, Maine and has prepared a Final Environmental Assessment (FEA) for the project. No federal land is occupied by project works or located within the project boundary.

The FEA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the FEA 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. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov, or toll-free at (866) 208-3676, or for TTY, (202) 502-8659.

You may also register online at <https://ferconline.ferc.gov/eSubscription.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any questions regarding this notice may be directed to Ryan Hansen at (202) 502-8074 or ryan.hansen@ferc.gov.

Dated: August 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-18528 Filed 8-16-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

[Federal Energy Regulatory Commission
[Docket No. CP24-509-000]]

Rockies Express Pipeline LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on August 7, 2024, Rockies Express Pipeline LLC (Rockies Express), 370 Van Gordon St., Lakewood, Colorado 80228, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.210 of the Commission's regulations under the Natural Gas Act (NGA), and Rockies Express' blanket certificate issued in Docket No. CP04-415-000, for authorization to increase its certificated mainline capacity by 80,000 dekatherms per day (Dth/d) by re-cylindering a reciprocating compressor unit (Unit 5300) at its Chandlersville Compressor Station in Muskingum County, Ohio (Re-cylindering Project). Specifically, Rockies Express proposes to decrease the size of Unit 5300's cylinder bore, which will allow the compressor to operate at a higher-pressure differential and lower suction pressure and thus increase station throughput. Rockies Express estimates the cost of the project to be approximately \$1,357,000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

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>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Shannon

Coleman, Vice President, Associate General Counsel and Chief FERC Compliance Office, Tallgrass Energy, LP, 370 Van Gordon St., Lakewood, Colorado 80228, by telephone at (303) 763-3287, or by email shannon.coleman@tallgrass.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on October 14, 2024. How to file protests, motions to intervene, and comments is explained below.

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.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is October 14, 2024. A protest may also serve as a motion to intervene so long as the

protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is October 14, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before October 14, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24-509-000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24-509-000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To file via any other method: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: to Shannon Coleman, Vice President, Associate General Counsel and Chief FERC Compliance Office, Tallgrass Energy, LP, 370 Van Gordon St., Lakewood, Colorado 80228 or by email shannon.coleman@tallgrass.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

www.ferc.gov using the “eLibrary” link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Dated: August 13, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-18521 Filed 8-16-24; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Privacy Act of 1974; System of Records

AGENCY: Federal Mediation and Conciliation Service

ACTION: Notice of a new system of records.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) uses this system to collect, process, and maintain information from applicants to the Shared Neutrals program. The purpose of this program is to reduce the cost of litigation involving EEO and workplace disputes across all federal agencies.

DATES: This system of records will be effective without further notice on September 18, 2024 unless otherwise revised pursuant to comments received. Comments must be received on or before September 18, 2024.

ADDRESSES: You may send comments, identified by FMCS-00011 by any of the following methods:

- *Mail:* Office of General Counsel, 250 E Street SW, Washington, DC 20427.
- *Email:* register@fmcs.gov. Include FMCS-00011 on the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Anna Davis, General Counsel, at adavis@fmcs.gov or 202-606-3737.

SUPPLEMENTARY INFORMATION: The Administrative Dispute Resolution Act of 1996 (ADRA), 5 U.S.C. 571 *et seq.*, authorizes and encourages agencies to use various alternative means of dispute resolution in the federal administrative process in order to avoid the time and

expense of litigation. This legislation also amends the Taft-Hartley Act by permanently adding section 173(f) of title 29 of the United States Code (29 U.S.C. 173(f)) so that FMCS may provide all forms of alternative dispute resolution assistance to federal agencies. Under this legislation, FMCS contains a dispute resolution program to assist with EEO and workplace disputes for all federal agencies. This Shared Neutrals program provides more than 50 participating federal agencies access to a pool of trained, collateral-duty federal employees. These employees provide mediation services to agencies other than their own in exchange for like services to the program from the recipient agency.

FMCS uses online activity tools that includes Survey Monkey and Microsoft Forms, all of which are online licensed software platforms, for evaluating mediators, and registering participants for training and roundtable discussions.

SYSTEM NAME AND NUMBER:

FMCS-00011 Shared Neutrals Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Mediation and Conciliation Service, 250 E Street SW, Washington, DC 20427.

SYSTEM MANAGER(S):

Karen Pierce, Supervisor, Office of Client Services, email kpierce@fmcs.gov, call (202) 606-3672, or send mail to Federal Mediation and Conciliation Service, 250 E Street Southwest, Washington, DC 20427, Attn: Karen Pierce.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Mediation and Conciliation Service, 29 U.S.C. 172, *et seq.*, and Departmental Regulations, 5 U.S.C. 301.

PURPOSE(S) OF THE SYSTEM:

The purpose of the records in this system is for collecting, processing, and maintaining applicant and participant information. This allows FMCS to organize and support agencies needing assistance from volunteer federal employee participants, to contact applicants and participants in the program, and to organize and analyze data for impact of service. This data is used to show the productivity and impact of the program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered in the system are applicants/

participants in the program that includes federal employees and point-of-contacts for federal agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained in the system include the following:

- Name;
- Information pertaining to applicant to include position, associated agency, association with a Federal Executive Board, official duty station, and clearance level;
- Contact information to include physical location, phone numbers, and email addresses;
- Supervisor contact information;
- Request for accommodation information;
- Volunteer information to include cases, status, rank, and the number of hours volunteered for; and
- Other information related to case information, trainings attended, assessments from others, and general information about time in program and work outside of program.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by federal employees, federal agencies, and Federal Executive Boards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FMCS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(a) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule regulation or order where the record, either alone or in conjunction with other information creates an indication of a violation or potential violation of civil or criminal laws or regulations.

(b) To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the agency when necessary to accompany an agency function related to this system of records.

(c) To officials of labor organizations and employers receiving services pursuant to 29 U.S.C. 172, *et seq.*

(d) To officials of labor organizations and federal agencies recognized under 5 U.S.C. chapter 71 upon receipt of a formal request and in accordance with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

(e) To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

(f) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when FMCS or other Agency representing FMCS determines the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(g) To the Department of Justice, including Offices of the U.S. Attorneys, or another Federal agency representing FMCS in pending or potential litigation or proceedings before any court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant and necessary to the litigation or proceeding, and one of the following is a party to the litigation or has an interest in such litigation:

(1) FMCS, or any component thereof;

(2) Any employee or former employee of FMCS in their official capacity;

(3) Any employee or former employee of FMCS in their capacity where the Department of Justice or FMCS has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the FMCS General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

(h) To any agency, organization, or person for the purposes of performing audit or oversight operations related to the operation of this system of records or for federal ethics compliance purposes as authorized by law, but only information necessary and relevant to such audit or oversight function.

(i) To disclose data or information to other federal agencies, educational institutions, or FMCS clients who collaborate with FMCS to provide research or statistical information, services, or training concerning conflict management.

FMCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMCS (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 FMCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(k) To another Federal agency or Federal entity, when FMCS 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.

(l) To disclose information to the National Archives and Records Administration (NARA) or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

(m) To a former employee of the Agency for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Agency regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Agency requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(n) To the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained electronically, and data collected is accessed through agency internal drives which require multi-factor authentication (MFA).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the name or other programmatic identifier such as agency, associated Federal Executive Board, phone number, or other agency needs.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are retained and disposed of in accordance with the Agency's Records Schedule approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are accessed on FMCS's internal drives and through web browsers to the internet that all require multi-factor authentication for login, are safeguarded in a secured environment, and are maintained in a secure, password-protected electronic system that utilize commensurate safeguards that may include firewalls, intrusion detection and prevention systems, and role-based access controls. All records are protected from unauthorized access through appropriate administrative, operational, and technical safeguards. These safeguards include restricting access to authorized personnel who have a "need to know" and password protection identification features.

RECORD ACCESS PROCEDURES:

Individuals must provide the following information for their records to be located and identified: (1) Full name, (2) Address, and (3) A reasonably identifying description of the record content requested. Requests can be submitted via fmcs.gov/foia/, via email to privacy@fmcs.gov, or via mail to the Privacy Office at FMCS 250 E Street SW, Washington, DC 20427. See 29 CFR 1410.3.

CONTESTING RECORDS PROCEDURES:

Requests for correction or amendment of records, on how to contest the content of any records. Privacy Act requests to amend or correct records may be submitted to the Privacy Office at privacy@fmcs.gov or via mail to the Privacy Office at FMCS 250 E Street SW, Washington, DC 20427. Also, see <https://www.fmcs.gov/privacy-policy/>. See 29 CFR 1410.6.

NOTIFICATION PROCEDURES:

See 29 CFR 1410.3(a), Individual access requests.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: June 25, 2024.

Alisa Zimmerman,

Deputy General Counsel, Federal Mediation and Conciliation Service.

[FR Doc. 2024-18453 Filed 8-16-24; 8:45 am]

BILLING CODE 6732-01-P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Privacy Act of 1974; System of Records

AGENCY: Federal Mediation and Conciliation Service

ACTION: Notice of a new system of records.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) uses this system to manage and apply retention policies to agency records not part of another system. This system also indexes and houses the agency's records for retrieval in case of requests or litigation.

DATES: This system of records will be effective without further notice on September 18, 2024 unless otherwise revised pursuant to comments received. Comments must be received on or before September 18, 2024.

ADDRESSES: You may send comments, identified by FMCS-0013 by any of the following methods:

- *Mail:* Office of General Counsel, 250 E Street SW, Washington, DC 20427.
- *Email:* register@fmcs.gov. Include FMCS-0013 on the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Anna Davis, General Counsel, at adavis@fmcs.gov or 202-606-3737.

SUPPLEMENTARY INFORMATION:

CollabSpace, an Electronic Records Management (ERM) system, is basic to maintaining agency records to comply with NARA standards and records schedules. CollabSpace was selected for its ease in management and its integration into Microsoft file management systems. Records managed by this system are housed in Exchange Online, SharePoint, OneDrive and in personal and departmental file shares. All sources are part of the Microsoft Azure Government Community Cloud (GCC).

SYSTEM NAME AND NUMBER:

FMCS-0013 CollabSpace Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Microsoft Azure Government Community Cloud (GCC) Cloud, US East

datacenter. There is no physical location, it is in "the cloud".

SYSTEM MANAGER(S):

Romona Jones, Records Officer, email rjones@fmcs.gov, call (202) 606-3664, or send mail to Federal Mediation and Conciliation Service, 250 E Street Southwest, Washington, DC 20427, Attn: Romona Jones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Mediation and Conciliation Service, 29 U.S.C. 172, *et seq.*, Departmental Regulations, 5 U.S.C. 301, Records Management by Federal Agencies, 44 U.S.C. 31, *et seq.*, and Records Management by the Archivist of the United States by the Administrator of the General Services, 44 U.S.C. 29.

PURPOSE(S) OF THE SYSTEM:

CollabSpace is a Records Management and Retention system for managing all manner of records produced and maintained by FMCS.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered in the system are FMCS employees and the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained in the system include names, email addresses, addresses, phone numbers, employer information, and other information found within agency records.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by FMCS employees, the public, and other agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FMCS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(a) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule regulation or order where the record, either alone or in conjunction with other information creates an indication of a violation or potential violation of civil or criminal laws or regulations.

(b) To disclose information to the National Archives and Records

Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

(c) To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the agency when necessary to accompany an agency function related to this system of records.

(d) To officials of labor organizations and employers receiving services pursuant to 29 U.S.C. 172, *et seq.*

(e) To officials of labor organizations and federal agencies recognized under 5 U.S.C. Chapter 71 upon receipt of a formal request and in accordance with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

(f) To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

(g) To disclose information in an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when FMCS or other Agency representing FMCS determines the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(h) To the Department of Justice, including Offices of the U.S. Attorneys, or another Federal agency representing FMCS in pending or potential litigation or proceedings before any court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant and necessary to the litigation or proceeding, and one of the following is a party to the litigation or has an interest in such litigation:

- (1) FMCS, or any component thereof;
- (2) Any employee or former employee of FMCS in their official capacity;
- (3) Any employee or former employee of FMCS in their capacity where the Department of Justice or FMCS has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the FMCS General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

(i) To any agency, organization, or person for the purposes of performing audit or oversight operations related to the operation of this system of records or for federal ethics compliance purposes as authorized by law, but only information necessary and relevant to such audit or oversight function.

(j) To appropriate agencies, entities, and persons when (1) FMCS suspects or has confirmed that there has been a breach of the system of records, (2) FMCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMCS (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 FMCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(k) To another Federal agency or Federal entity, when FMCS 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.

(l) To a former employee of the Agency for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Agency regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Agency requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(m) To disclose information to the National Archives and Records Administration (NARA) or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained electronically, and stored dependent on the policies and procedures of the records and record schedules within the system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

CollabSpace has a Discovery search feature which allows for the retrieval of records by metadata or keywords such as name, address, or other identifiers. All searches must be properly authorized by the Office of the General Counsel (OGC) in writing. Only Discovery Administrators have access to the Discovery feature.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are retained and disposed of in accordance with General Records Schedule issued by the National Archives and Records Administration (NARA) and the Agency's Comprehensive Schedule approved by NARA to include, but not limited to, administrative, legal, financial, historical, and electronic records.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are housed in a secure, FedRAMP-authorized cloud location that is secured with single-sign-on (SSO) multi-factor authentication. These records all require a username and password for login, are safeguarded in a secured environment, and are maintained in a secure, password-protected electronic system that utilize commensurate safeguards that may include firewalls, intrusion detection and prevention systems, and role-based access controls. All records are protected from unauthorized access through appropriate administrative, operational, and technical safeguards. These safeguards include restricting access to authorized personnel who have a "need to know" and password protection identification features.

RECORD ACCESS PROCEDURES:

Individuals must provide the following information for their records to be located and identified: (1) Full name, (2) Address, and (3) A reasonably identifying description of the record content requested. Requests can be submitted via fmcs.gov/foia/, via email to privacy@fmcs.gov, or via mail to the Privacy Office at FMCS 250 E Street SW, Washington, DC 20427. See 29 CFR 1410.3.

CONTESTING RECORDS PROCEDURES:

Requests for correction or amendment of records, on how to contest the content of any records. Privacy Act requests to amend or correct records may be submitted to the Privacy Office at privacy@fmcs.gov or via mail to the Privacy Office at FMCS 250 E Street SW, Washington, DC 20427. Also, see <https://www.fmcs.gov/privacy-policy/>. See 29 CFR 1410.6.

NOTIFICATION PROCEDURES:

See 29 CFR 1410.3(a), Individual access requests.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: August 13, 2024.

Alisa Zimmerman,

Deputy General Counsel, Federal Mediation and Conciliation Service.

[FR Doc. 2024-18457 Filed 8-16-24; 8:45 am]

BILLING CODE 6732-01-P

GENERAL SERVICES ADMINISTRATION

[Notice—MA—2024—02; Docket No. 2024-0002; Sequence No. 49]

Maximum Per Diem Reimbursement Rates for the Continental United States (CONUS)

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

ACTION: Notice of GSA Per Diem Bulletin FTR 25-01, Fiscal Year (FY) 2025 CONUS per diem reimbursement rates.

SUMMARY: The GSA FY 2025 per diem reimbursement rates review has resulted in lodging and meal allowance changes for certain locations within CONUS to provide for reimbursement of Federal employees' subsistence expenses while on official travel.

DATES: *Applicability Date:* This notice applies to travel performed on or after October 1, 2024, through September 30, 2025.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Sarah Selenich, Office of Government-wide Policy, Office of Asset and Transportation Management, at 202-568-4265 or by email at travelpolicy@gsa.gov. Please cite Notice of GSA Per Diem Bulletin FTR 25-01.

SUPPLEMENTARY INFORMATION: The CONUS per diem reimbursement rates prescribed in Bulletin 25-01 may be

found at <https://www.gsa.gov/perdiem>. GSA bases the maximum lodging allowance rates on average daily rate, a widely accepted lodging industry measure, less five percent. If a maximum lodging allowance rate and/or a meals and incidental expenses (M&IE) per diem reimbursement rate is insufficient to meet necessary expenses in any given CONUS location, Federal executive agencies can request that GSA review that location. More information on rate setting can be found on GSA's "Factors Influencing Lodging Rates" tab at <https://www.gsa.gov/perdiem>. Additional information on the special review process can also be found at this website under the "FAQs" tab. Further, the Federal Travel Regulation (FTR) allows for actual expense reimbursement as provided in §§ 301–11.300 through 301–11.306.

For FY 2025, no new non-standard area (NSA) locations are added. Maximum lodging allowance rates in some existing per diem localities are changing and the standard CONUS lodging rate is increasing from \$107 to \$110. The M&IE reimbursement rate tiers are also revised for FY 2025; they were last revised in FY 2022. The M&IE

NSA tiers are increasing from \$59–\$79 to \$68–\$92, and the standard M&IE rate is increasing from \$59 to \$68.

Other than the changes posted on the GSA website, notices published periodically in the **Federal Register** now constitute the only notification of revisions in CONUS per diem reimbursement rates to agencies.

Mehul Parekh,

Acting Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2024–17954 Filed 8–16–24; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Award; Infant-Toddler Court Program—State Awards

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental award.

SUMMARY: HRSA is providing supplemental award funds to the

current Infant-Toddler Court Program (ITCP)—State Awards recipients in federal fiscal year (FY) 2024 to support the continuation and expansion of existing activities to build state and local capacity and implement the infant-toddler court approach.

FOR FURTHER INFORMATION CONTACT:

Kateryna Zoubak, Early Childhood Systems Analyst, Division of Home Visiting and Early Childhood Systems, Maternal and Child Health Bureau, HRSA, at ezoubak@hrsa.gov or 240–475–8014.

SUPPLEMENTARY INFORMATION:

Intended Recipient(s) of the Award: All 12 current recipients of the ITCP—State Awards, as listed in table 1.

Amount of Non-Competitive Supplemental Award(s): 12 awards totaling approximately \$2.7 million.

Project Period: September 30, 2022, to September 29, 2027.

Assistance Listing (CFDA) Number: 93.110.

Award Instrument: Non-competitive supplements to cooperative agreements.

Authority: 42 U.S.C. 701(a)(2) (title V, sec. 501(a)(2) of the Social Security Act)).

TABLE 1—RECIPIENTS AND AWARD AMOUNTS

Grant No.	Award recipient name	State	Award amount
U2ZMC46643	Prevent Child Abuse Arizona	AZ	\$242,921
U2ZMC52975	Illuminate Colorado, Inc	CO	243,000
U2ZMC46638	Georgia State University Research Foundation, Inc	GA	243,000
U2ZMC46644	Iowa Department of Public Health	IA	243,000
U2ZMC46639	Michigan Department of Health and Human Services	MI	242,235
U2ZMC46636	Nevada Division of Child & Family Services	NV	Declined
U2ZMC46642	Passaic County Court Appointed Special Advocates, A New Jersey Nonprofit Corporation.	NJ	243,000
U2ZMC46640	Justice Innovation Inc., d/b/a Center for Court Innovation	NY	243,000
U2ZMC46637	Educational Service Center of Cuyahoga County	OH	243,000
U2ZMC46641	Oklahoma Department of Mental Health and Substance Abuse Services	OK	243,000
U2ZMC46635	Children's Center	UT	242,999
U2ZMC46634	Children and Youth Justice Center	WA	243,000

Justification: The FY 2023 and 2024 appropriations for Maternal and Child Health Block Grant Special Projects of Regional and National Significance increased funding for the ITCP, compared to the FY 2022 enacted level. A Congressional Report accompanying the Further Consolidated Appropriations Act, 2024 (Pub. L. 118–47) designated funding “to continue and expand research-based Infant-Toddler Court Teams to change child welfare practices to improve wellbeing for infants, toddlers, and their families” (Senate Report 118–84). Consistent with Congressional intent, HRSA plans to use this funding to continue, enhance, and expand teams currently funded by ITCP

State Awards (HRSA–22–073). Supplemental awards will be used for project activities within the scope of the current ITCP—State Awards funding opportunity (HRSA–22–073). HRSA is awarding a total of approximately \$2.7 million to the 12 current ITCP—State Award recipients noted in table 1. Supplemental funding for similar activities may be considered in future years, depending on availability of funding for the activity and satisfactory performance.

Carole Johnson,

Administrator.

[FR Doc. 2024–18459 Filed 8–16–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Practitioner Data Bank: Change in User Fee for Self-Query Mailed Paper Copies

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: HRSA is announcing a change in user fees charged to individuals requesting a supplemental mailed paper copy of their National Practitioner Data

Bank (NPDB) self-query results. The supplemental fee will increase from \$3.00 to \$13.00 per mailed paper copy as these copies will be provided using U.S. Postal Service certified mail. The user fees for one-time query, continuous, and digitally certified self-query results will remain unchanged.

DATES: The fee increase for mailed paper self-query results will be effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: David Loewenstein, Director, Division of Practitioner Data Bank, Bureau of Health Workforce, HRSA, (301) 443-2300, NPDBPolicy@hrsa.gov.

SUPPLEMENTARY INFORMATION: The current fee structure (\$2.50/continuous query enrollment, \$2.50/one-time query, and \$3.00/self-query and an additional \$3.00/requested mailed paper copy) was announced in the **Federal Register** on July 21, 2021, (86 FR 38491) and became effective on October 1, 2021. One-time queries, continuous query enrollments, and self-queries are submitted and query responses are received through the NPDB's secure website. Fees are paid via electronic funds transfer, debit card, or credit card.

The user fees for one-time query, continuous, and digitally certified self-query results will remain unchanged. Upon requesting a self-query, practitioners receive a digitally certified response which they can save and provide to requesting entities electronically. Digitally certified self-queries are delivered in an unalterable PDF within minutes of the request being placed. Practitioners can save their certified response file digitally and provide it to requesting entities directly. The security of a digitally certified response provides assurance that the response is exactly as it was issued by the NPDB. However, if needed, practitioners may also request a mailed paper copy of their self-query results. To protect sensitive information in self-query responses, the mailed results will now be delivered through U.S. Postal Service certified mail with receipt confirmation. Since the NPDB is required to cover all its costs with user fees, increased fee for mailed paper self-query results will offset the certified mail expense.

HRSA operational standards require review of NPDB user fees at least every 2 years. The biennial review of NPDB user fees offers HRSA the opportunity to evaluate its reserves as well as revenue relative to costs. Further, the review provides essential information on whether the fee rates and authorized activities are aligned with actual program costs and activities, and can

help promote greater understanding of the fee by NPDB users.

The NPDB is authorized by the Health Care Quality Improvement Act of 1986 (the Act), Title IV of Public Law 99-660, as amended (42 U.S.C. 11101 *et seq.*). Further, two additional statutes expanded the scope of the NPDB—Section 1921 of the Social Security Act, as amended (42 U.S.C. 1396r-2) and Section 1128E of the Social Security Act, as amended (42 U.S.C. 1320a-7e). Information collected under the Section 1128E authority was consolidated within the NPDB pursuant to Section 6403 of the Affordable Care Act, Public Law 111-148; this consolidation became effective on May 6, 2013. 42 U.S.C. 11137(b)(4), 42 U.S.C. 1396r-2(e), and 42 U.S.C. 1320a-7e(d) authorize the establishment of fees for the costs of processing requests for disclosure of such information. Final regulations at 45 CFR part 60 set forth the criteria and procedures for information to be reported to and disclosed by the NPDB. In determining any changes in the amount of user fees, the Department uses the criteria set forth in section 60.19(b) of the regulations. Section 60.19(b) states:

"The amount of each fee will be determined based on the following criteria:

- (1) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement,
- (2) Physical overhead, consulting, and other indirect costs (including materials and supplies, utilities, insurance, travel, and rent and depreciation on land, buildings, and equipment),
- (3) Agency management and supervisory costs,
- (4) Costs of enforcement, research, and establishment of regulations and guidance,
- (5) Use of electronic data processing equipment to collect and maintain information—the actual cost of the service, including computer search time, runs and printouts, and
- (6) Any other direct or indirect costs related to the provision of services."

The Department will continue to review the user fees periodically as required by Office of Management and Budget Circular Number A-25 and will revise fees as necessary. Any future changes in user fees and their effective dates will be announced in the **Federal Register**.

Carole Johnson,
Administrator.

[FR Doc. 2024-18456 Filed 8-16-24; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-0260]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before September 18, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, Sherrette.Funn@hhs.gov or (202) 264-0041, or PRA@HHS.GOV. When submitting comments or requesting information, please include the document identifier 0990-0260-30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Assurance of Compliance with Federal Policy/IRB Review/IRB Recordkeeping/Informed Consent/Consent Documentation.

Type of Collection: Extension of a currently approved collection.

OMB No.: 0990-0260.

Abstract: The Office of the Assistant Secretary for Health, Office for Human Research Protections is requesting a three-year extension of the Protection of Human Subjects: Assurance of Compliance with Federal Policy/IRB Review/IRB Recordkeeping/Informed

Consent/Consent Documentation, OMB No. 0990–0260.
Information reported to the Federal departments and agencies under the Common Rule with respect to a satisfactory assurance is used to ensure that an institution engaged in non-exempt research involving human subjects conducted or supported by a Common Rule department or agency has

(1) established adequate administrative policies and procedures for protecting the rights and welfare of human subjects in research, and (2) accepts that responsibility. Other reporting requirements are used to: assess whether the institution is following the established procedures; ensure that Federal funds are not expended for unapproved human subjects research;

and, determine if the approved status of an awarded grant, contract, or cooperative agreement should be reviewed, with the ultimate goal of maintaining or increasing human subject protections.
Likely Respondents: Institutions and institutional review boards.
Annualized Burden Hour Tables

TABLE 1—ESTIMATED ANNUAL IRB RECORDKEEPING BURDEN

Common rule provision	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
.115 [Pre-2018 and 2018 Requirement]—Preparation and documentation of IRB activities	6,000	16	96,000	12	1,152,000
Total .....	.....	.....	96,000	.....	1,152,000

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN

	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
.109(d) [Pre-2018 and 2018 Requirements]—Written notification of IRB approval or disapproval of research	6,000	25	150,000	0.5	75,000
.116(a) and (b) (Pre-2018 Requirements)/.116 (b), (c) and (d) [2018 Requirements]—Elements of informed consent and broad consent	6,000	25	150,000	0.5	75,000
.116(h)—[2018 Requirements]—Posting clinical trial consent form	425	5	2,125	0.5	1,063
.117(a) [Pre-2018 and 2018 Requirements]—Documentation of informed consent	6,000	20	120,000	0.5	60,000
.117(c)(2) [Pre-2018 and 2018 Requirements]—Written statement about the research when informed consent documentation is waived	6,000	5	30,000	.5	15,000
Total .....	.....	.....	452,125	.....	226,063

Sherrette A. Funn,
Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.
[FR Doc. 2024–18447 Filed 8–16–24; 8:45 am]
BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Library of Medicine Board of Scientific Counselors, November 7, 2024, 11:00 a.m. to 2:30 p.m., which was published in the **Federal Register** on July 15, 2024, 89 FR 135, Page Number 57422.
This notice is being amended to announce that the meeting date will be changed from November 7, 2024, to November 6, 2024. The meeting will be virtual.

Dated: August 13, 2024.
Miguelina Perez,
Program Analyst, Office of Federal Advisory Committee Policy.
[FR Doc. 2024–18489 Filed 8–16–24; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Advisory Committee on Research on Women’s Health.
The meeting will be open to the public as a virtual meeting. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact

Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov/>).
Name of Committee: Advisory Committee on Research on Women’s Health.
Date: October 8, 2024.
Time: 9:00 a.m. to 4:30 p.m.
Agenda: ORWH Director’s Report, Presentation from NIBIB and SEED Office Directors, Panel discussion on technology, engineering and, innovation in women’s health, presentation from the U.S. National Science Foundation’s Directorate for Engineering Director, presentations of concepts for Advisory Committee clearance including Funding Opportunities to Support Research on Chronic Female-Specific and Gynecologic Conditions and Careers of Women.
Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Bethesda, MD 20892 (In-Person and Virtual Meeting).
Contact Person: Vivian Ota Wang, Ph.D., FACMG, CGC, Deputy Director, Office on Research for Women’s Health, Division of Program Coordination, Planning and

Strategic Initiatives, National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, 240-550-9892, otawangv@nih.gov.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meetings. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <https://orwh.od.nih.gov/>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 13, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-18481 Filed 8-16-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Career Development for Established Investigators and Conference Grants Study Section.

Date: October 10-11, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Ln, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Rajasri Roy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 5601 Fishers Lane, Rm 2W200, Rockville, MD 20852, 301-496-6477, rajasri.roy@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 13, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-18487 Filed 8-16-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Brain Cell Atlas of AD/ADRD.

Date: September 17, 2024.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Ln, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Sandhya Sanghi, Ph.D., Scientific Review Officer, National Institute of Aging, National Institute of Health, 7201 Wisconsin Ave., Bethesda, MD 20814, (301) 496-2879, sandhya.sanghi@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 5, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-18486 Filed 8-16-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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; CLINICAL TRIAL ON ACHALASIA.

Date: September 24, 2024.

Time: 2:00 p.m. to 4:00 p.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: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, National Institute of Diabetes and Digestive and Kidney, National Institute of Health, 6707 Democracy Blvd., Rm 7017, Bethesda, MD 20892-5452, (301) 594-7637, davila-bloom@extra.niddk.nih.gov.

(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: August 13, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-18485 Filed 8-16-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a 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 materials, 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 Library of Medicine Special Emphasis Panel; Conflicted R01 and Multiple Programs.

Date: December 5, 2024.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ali Sharma, Ph.D., Scientific Review Officer, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892-7968, ali.sharma@nih.gov.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 13, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-18480 Filed 8-16-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Career Development For Early Career Investigators Study Section.

Date: October 8–9, 2024.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Ln, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Dario Dieguez, Ph.D., Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Rockville, MD 20852, (301) 827-3101, dario.dieguez@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 13, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-18488 Filed 8-16-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2024-0432]

National Merchant Marine Personnel Advisory Committee; September 2024 Meetings

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of open Federal advisory committee meetings.

SUMMARY: The National Merchant Marine Personnel Advisory Committee (Committee) will meet in-person over two days in Washington, DC to discuss issues relating to personnel in the United States Merchant Marine including the training, qualifications, certification, documentation, and fitness of mariners. Several of the Committee's subcommittees will also be meeting. For more detailed information regarding subcommittees see Day 1, sections (5) and (7) below.

DATES:

Meetings: The National Merchant Marine Personnel Advisory Committee is scheduled to meet on Wednesday, September 4, 2024, from 9 a.m. until 4:30 p.m. Eastern Daylight Time Zone (EDT) and Thursday, September 5, 2024, from 9 a.m. until 4:30 p.m. (EDT). The

Committee meeting on Wednesday, September 4, 2024, will include periods during which the Committee will break into subcommittees beginning at 10 a.m., to discuss the task statements listed in Day 1, sections (5) and (7) in the Supplementary Information. These meetings may adjourn early if the Committee and subcommittees have completed their business.

Comments and supporting documentation: To ensure your comments are received by Committee and subcommittee members before the meetings, submit your written comments no later than August 26, 2024.

ADDRESSES: These meetings will be held at the Department of Homeland Security campus, 2703 Martin Luther King Jr Ave SE, Stop 7509, Washington, DC 20593-7509.

Pre-registration Information: Pre-registration is mandatory for these meetings and is limited to the first 30 confirmed attendees. Additional information will be required to register for access to the Department of Homeland Security campus. You must provide your legal name and a phone number to the individual noted in the **FOR FURTHER INFORMATION CONTACT** section, as well as identifying which subcommittee meeting you plan to attend.

The National Merchant Marine Personnel Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Mrs. Megan Johns Henry at megan.c.johns@uscg.mil or call at (202) 372-1255 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at these meetings as time permits, but if you want Committee or subcommittee members to review your comment before the meetings, please submit them no later than August 26, 2024. We are particularly interested in comments on the issues in the "Agenda" section below. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2024-0432 in the search box and click "Search". Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using <https://www.regulations.gov>, email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this

document for alternate instructions. You must include the docket number USCG–2024–0432. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may wish to review the Privacy and Security Notice, found via link on the homepage <https://www.regulations.gov> and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mrs. Megan Johns Henry, Alternate Designated Federal Officer of the National Merchant Marine Personnel Advisory Committee, telephone (202) 372–1255, or email megan.c.johns@uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of these meetings is in compliance with the *Federal Advisory Committee Act* (Pub. L. 117–286, 5 U.S.C. ch. 10). The Committee is authorized by section 601 of the *Frank LoBiondo Act of 2018* and is codified in 46 U.S.C. 15103. The Committee operates under the provisions of the *Federal Advisory Committee Act* and 46 U.S.C. 15109. The Committee provides advice and recommendations to the Secretary of Homeland Security through the Commandant of the Coast Guard on matters relating to personnel in the United States Merchant Marine including the training, qualifications, certification, documentation, and fitness of mariners.

Agenda: The National Merchant Marine Personnel Advisory Committee will meet on Wednesday, September 4, 2024, and Thursday, September 5, 2024 to review, discuss, deliberate, and formulate recommendations, as appropriate on the following topics.

Day 1

The agenda for the September 4, 2024 meeting is from 9 a.m. until 4:30 p.m. (EDT) as follows:

(1) The full Committee will meet briefly to discuss the subcommittees' business and task statements for all

open tasks, which are listed under paragraph (12) under Day 2 below.

(2) Call to order by Committee Chair.

(3) Adjourn to work on subcommittee task statements.

(4) During the morning session of the meeting, several subcommittees will meet simultaneously in separate rooms to address and work on their assigned task statement beginning at 10 a.m. (EDT). Each subcommittee will follow the same agenda:

(a) Call to order by subcommittee chair.

(b) Work on task statements.

(c) Public comments will be accepted throughout the meeting.

(d) Adjourn at completion of work at 12 p.m. (EDT), or earlier if the work has been completed.

(5) The task statements for the morning session are available for viewing at [https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee-\(nmerpac\)/task-statements](https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee-(nmerpac)/task-statements):

(a) Task Statement 24–2, Review of Maritime Administration's Maritime Workforce Group Report on the Maritime Workforce;

(b) Task Statement 21–5, Review of Merchant Mariner Rating and Officer Endorsement Job Task Analyses; and

(c) Task Statement 24–1, Training and Experience Guidelines for Seafarers Employed Aboard Ships Using Alternative Fuels.

(6) During the afternoon session of the meeting, several subcommittees will meet simultaneously in separate rooms to address and work on their assigned task statement beginning at 1 p.m. (EDT). Each subcommittee will follow the same agenda:

(a) Call to order by subcommittee chair.

(b) Work on task statements.

(c) Public comments will be accepted throughout the meeting.

(d) Adjourn at completion of work at 4:30 p.m. (EDT), or earlier if the work has been completed.

(7) The task statements for the afternoon session are available for viewing at [https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee-\(nmerpac\)/task-statements](https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee-(nmerpac)/task-statements):

(a) Task Statement 21–2, Communication Between External Stakeholders and Mariner Credentialing Program including amendment Task Statement 21–2A, Reviewing Assessments in NVICs for STCW;

(b) Task Statement 21–5, Review of Merchant Mariner Rating and Officer Endorsement Job Task Analyses; and

(c) Task Statement 24–1, Training and Experience Guidelines for Seafarers Employed Aboard Ships Using Alternative Fuels.

Day 2

The agenda for the September 5, 2024 meeting is, from 9 a.m. until 4:30 p.m. (EDT) as follows:

(1) Introduction.

(2) Designated Federal Officer and Coast Guard Leadership remarks.

(3) Roll call of Committee members and determination of a quorum.

(4) Swearing-in of new members.

(5) Adoption of the agenda.

(6) Acceptance of Minutes from Committee Meeting 6 (December 12, 2023).

(7) Acceptance of Minutes from Committee Meeting 7 (March 27, 2024).

(8) Introduction of new task.

(9) National Maritime Center update presentation.

(10) Public comment period.

(11) Office of Merchant Mariner Credentialing update presentation.

(12) Reports from the subcommittee Chair or Co-Chairs.

The Committee will review the information presented on the following Task Statements, allow for public comment following the presentations, and deliberate on any recommendations presented by the Subcommittees. Recommendations may be approved and completed tasks may be closed. Official action on the following topics may be taken:

(a) Task Statement 21–1, Review of IMO Model Courses Being Validated by the IMO HTW Subcommittee;

(b) Task Statement 21–2, Communication Between External Stakeholders and the Mariner Credentialing Program, including amendment Task Statement 21–2A, Reviewing Assessments in NVICs for STCW;

(c) Task Statement 21–3, Military Education, Training, and Assessment for STCW and National Mariner Endorsements;

(d) Task Statement 21–4, STCW Convention and STCW Code Review;

(e) Task Statement 21–5, Review of Merchant Mariner Rating and Officer Endorsement Job Task Analyses;

(f) Task Statement 21–6, Sea Service for Merchant Mariner Credential Endorsements;

(g) Task Statement 21–9, Sexual Harassment and Sexual Assault-Prevention and Culture Change in the Merchant Marine;

(h) Task Statement 22–2, Alternative Methods for Meeting STCW Training Requirements at the Operational Level;

(i) Task Statement 22–3, Mariner Credentialing Program (MCP) Transformation;

(j) Task Statement 24–1, Training and Experience Guidelines for Seafarers Employed Aboard Ships Using Alternative Fuels; and

(k) Task Statement 24–2, Review of the Maritime Administration's Report on Maritime Workforce.

(13) Closing remarks.

(14) Adjournment of meeting.

A copy of all meeting documentation will be available at [https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee-\(nmerpac\)](https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-marine-personnel-advisory-committee-(nmerpac)) by August 26, 2024. Alternatively, you may contact the individual noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meetings as the Committee and subcommittees discuss the issues, and prior to deliberations and voting. Public comments will be limited to 3 minutes per speaker and limited to one comment per person. Please note that the public comments period will end following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Dated: August 13, 2024.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2024–18455 Filed 8–16–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2024–0015; OMB No. 1660–0137]

Agency Information Collection Activities: Submission for OMB Review, Comment Request; Emergency Notification System (ENS)

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of extension and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA invites

the general public to take this opportunity to comment on an extension of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Emergency Notification System (ENS).

DATES: Comments must be submitted on or before September 18, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Anthony Allen, ENS System Security Officer/IT Technician, FEMA/ORR, by email at Anthony.Allen@fema.dhs.gov or telephone at 540–326–2645. You may contact the Records Management Division for copies of the proposed collection of information at email address: FEMA-Information-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: FEMA's Office of Response & Recovery (ORR) owns and operates the Emergency Notification System (ENS). FEMA Directive 262–3 designates ENS as the Agency's solution for all notification and alerts activities. The ENS sends electronic notifications and relays messages, whether critical in nature, routine, or for testing purposes with appropriate authorization, to Department of Homeland Security (DHS) employees and contractors, as well as emergency response personnel. In accordance with Executive Order 12656, Presidential Policy Directive 40, and Federal Continuity Directive-1, all DHS organizational components must have in place a viable Continuity of Operations Planning capability and plan that ensures the performance of their essential functions during any emergency or situation that could disrupt normal operations. An effective ENS solution is a critical part of this plan.

This proposed information collection previously published in the **Federal Register** on April 9, 2024, at 89 FR 24849 with a 60-day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below

to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Emergency Notification System (ENS).

Type of Information Collection: Extension of a currently approved information collection.

OMB Number: 1660–0137.

FEMA Forms: FEMA Form FF–104–FY–24–100, Emergency Notification System (ENS).

Abstract: The Emergency Notification System (ENS) has been deemed the standard notification tool for FEMA. The purpose of this notification tool is to activate teams and disseminate information. The respondents to this information are Mobile Operation Centers and Regions that use this information to make decisions on how to meet operational missions.

Affected Public: State, Local or Tribal Governments; Federal Government.

Estimated Number of Respondents: 700.

Estimated Number of Responses: 2,200.

Estimated Total Annual Burden Hours: 184.

Estimated Total Annual Respondent Cost: \$8,005.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$214,743.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2024–18498 Filed 8–16–24; 8:45 am]

BILLING CODE 9111–24–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2024–0023; OMB No. 1660–0026]

Agency Information Collection Activities: Proposed Collection, Comment Request; Administrative Plan for the Hazard Mitigation Grant Program

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of Extension and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the State Administrative Plan for the procedural guide that details how the State will administer the Hazard Mitigation Grant Program (HMGP).

DATES: Comments must be submitted on or before October 18, 2024.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at <http://www.regulations.gov> under Docket ID FEMA–2024–0023. Follow the instructions for submitting comments.

All submissions received must include the Agency name and Docket ID. Regardless of the method used to submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Travis Battiest, Section Chief for Tools, SOPS, and Implementation, Hazard Mitigation Assistance Division, Mitigation Directorate, FEMA, at (202) 714–8052 or travis.battiest@fema.dhs.gov. You may contact the Information Management Division for copies of the proposed collection of information at email address: FEMA-Information-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: FEMA regulations in 44 CFR 206.437 require development and updates to the Administrative Plan by Applicants or Recipients as a condition of receiving Hazard Mitigation Grant Program (HMGP) funding under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Pub. L. 93–288, as amended) (42 U.S.C. 5170c). Applicants or Recipients can be any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the government of a Federally-recognized Tribe that chooses to act as an Applicant or Recipient.

The regulation at 44 CFR 206.437 requires a State to have a FEMA-approved Administrative Plan to receive HMGP funding. At its minimum, the Administrative Plan will include the designated State agency or Indian Tribal government that will act as the Recipient, identify the State Hazard Mitigation Officer or Tribal Hazard Mitigation Officer, identify staffing requirements, and establish a guide for implementation activities and procedures to account for non-Federal cost sharing. Additional information requirements are guided by the type of mitigation activities being pursued.

The State, territorial, or Tribal government must establish procedures to guide the administration of the HMGP in the Administrative Plan, as outlined in the listed activities below. FEMA will review the information provided to ensure proper documentation of each activity.

The Department of Homeland Security (DHS) adopted in its entirety the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) on December 26, 2014. This rule eliminates overlapping and duplicative requirements for stakeholders, including States, territories and Indian Tribal governments, by using general terms such as “recipient” or “pass-through entity.” FEMA is also avoiding unnecessary duplication, overlap and

the demand for maintenance of requirements under HMGP in two documents, the State Administrative Plan, and the Tribal Administrative Plan. FEMA instead is offering and referring to one common set of requirements in an “Administrative Plan.” The term “State Administrative Plan” is now referred to “Administrative Plan for the Hazard Mitigation Grant Program”.

Collection of Information

Title: Administrative Plan for the Hazard Mitigation Grant Program.

Type of Information Collection: Extension of a currently approved information collection.

OMB Number: 1660–0026.

FEMA Forms: Not applicable.

Abstract: The State Administrative Plan for the Hazard Mitigation Grant Program (HMGP) is a procedural guide that details how the State, territory, or Tribal government will administer the HMGP. The State, territory, or Tribal government (who acts as a recipient) must have a current administrative plan approved by the appropriate FEMA Regional Administrator before receiving HMGP funds. The administrative plan may take any form including a chapter within a comprehensive State, territory, or Tribal mitigation program strategy.

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 35.

Estimated Number of Responses: 70.

Estimated Total Annual Burden

Hours: 560.

Estimated Total Annual Respondent Cost: \$34,143.

Estimated Respondents’ Operation and Maintenance Costs: \$0.

Estimated Respondents’ Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$25,241.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the Agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2024–18448 Filed 8–16–24; 8:45 am]

BILLING CODE 9111–BW–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_WY_FRN_MO #4500181816]

Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. These surveys, which were executed at the request of the U.S. Forest Service, the Bureau of Reclamation and the BLM are necessary for the management of these lands.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing by September 18, 2024.

ADDRESSES: You may submit written protests to the Wyoming State Director at WY926, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Sonja Sparks, BLM Wyoming Chief Cadastral Surveyor, by telephone at 307–775–6225 or by email at s75spark@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office, Cheyenne, Wyoming.

Sixth Principal Meridian, Wyoming

T. 16 N., R. 78 W., Group No. WY1078, dependent resurvey, accepted July 12, 2024.

T. 21 N., R. 88 W., Group No. WY1077,

survey, accepted July 12, 2024;
T. 22 N., R. 88 W., Group No. WY1077, dependent resurvey, accepted July 12, 2024;

T. 14 N., R. 85 W., Group No. WY1083, dependent resurvey, accepted July 12, 2024;

T. 52 N., R. 93 W., Group No. WY1087, dependent resurvey, accepted July 12, 2024;

T. 24 N., R. 71 W., Group No. WY1092, dependent resurvey and survey, accepted August 2, 2024;

T. 25 N., R. 71 W., Group No. WY1092, dependent resurvey, accepted August 2, 2024;

T. 26 N., R. 72 W., Group No. WY1092, survey, accepted August 2, 2024;

A person or party who wishes to protest one or more plats of survey identified in this notice must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plat and field notes are available to the public at a cost of \$4.20 per plat and \$0.15 per page of field notes. Requests can be made to blm_wy_survey_records@blm.gov or by telephone at 307–775–6222.

(Authority: 43 U.S.C., Chapter 3)

Dated: August 14, 2024.

Sonja S. Sparks,

Chief Cadastral Surveyor of Wyoming.

[FR Doc. 2024–18518 Filed 8–16–24; 8:45 am]

BILLING CODE 4331–26–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–602 and 731–TA–1412 (Review)]

Steel Wheels From China; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (“the Act”) to determine whether revocation of the antidumping duty order and countervailing duty order on steel wheels from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: July 5, 2024.

FOR FURTHER INFORMATION CONTACT: (Alec Resch 202–708–1448), 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 this proceeding may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On July 5, 2024, the Commission determined that the domestic interested party group response to its notice of institution (89 FR 22451, April 1, 2024) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.¹ Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission’s Rules of Practice and

¹ A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements will be available from the Office of the Secretary and at the Commission’s website.

Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on September 25, 2024. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before 5:15 p.m. on October 3, 2024 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by October 3, 2024. However, should the Department of Commerce ("Commerce") extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined that these reviews are extraordinarily complicated and

therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Act; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 14, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–18513 Filed 8–16–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB 1140–0003]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Report of Multiple Sale or Other Disposition of Pistols and Revolvers—ATF Form 3310.4

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 18, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, contact: Matthew Grim, NSC/NTC Division/Tracing Operations & Records Management (TORM), either by mail at 244 Need Rd., Martinsburg, WV 25405, by email at matthew.grim@atf.gov, or telephone at 304–260–3683.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility; —Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; —Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and —Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Title 18, United States Code 923 (g) (3) provides that "Each licensee shall prepare a report of multiple sales of other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols or revolvers totaling two or more, to an unlicensed person." The report shall be prepared on ATF F 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Report of Multiple Sale or Other Disposition of Pistols and Revolvers.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: ATF Form 3310.4.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: State, local and tribal governments, Private Sector-for or not for profit institutions, Federal Government. The obligation to respond is mandatory per Title 18 U.S.C 923 (g)(3).

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 78,657 respondents will complete this form 8.247 times annually, and it will take each respondent approximately 15 minutes to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the*

² The Commission has found the response submitted on behalf of Accuride Corporation to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

collection: The estimated annual public burden associated with this collection is 162,163 hours, which is equal to 78,657

(total respondents) * 8.247 (# of response per respondent) * 0.25 (5 minutes).

7. An estimate of the total annual cost burden associated with the collection, if applicable: \$47,351.

TOTAL BURDEN HOURS					
Activity	Number of respondents	Frequency	Total annual responses	Time per response (minutes)	Total annual burden (hours)
ATF F 3310.4	78,657	8.247	648,653	15	162,163

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: August 14, 2024.

Darwin Arceo,
Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–18532 Filed 8–16–24; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB 1140–0087]

Agency Information Collection Activities; Proposed eCollection eComments Requested; eForm Access Request/User Registration

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until September 18, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Victoria Kenney, FEIB/FESD, by email at Victoria.Kenney@atf.gov, or telephone at 304–616–3376.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register**, volume 89 page 49211, on Tuesday, June 11, 2024, allowing a 60-

day comment period. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and/or
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB Control Number 1140–0087. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs

receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.
2. *Title of the Form/Collection:* eForm Access Request/User Registration.
3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.
4. Affected public who will be asked or required to respond, as well as a brief abstract:

Affected Public: Private Sector-for or not for profit institutions.

Abstract: The information on this form allows users to obtain access to the eForms system to submit various forms to ATF and allows ATF to authenticate those users. Information Collection (IC) OMB 1140–0087—eForm Access Request/User Registration is being revised to include updated screenshots that reflect the new systems appearance and layout. New system updates have led to the prior screenshots being outdated.
5. *Obligation to Respond:* Voluntary.
6. *Total Estimated Number of Respondents:* 390,000 of respondents.
7. *Estimated Time per Respondent:* 2.24 minutes.
8. *Frequency:* Once annually.
9. *Total Estimated Annual Time Burden:* 2,837 hours.
10. *Total Estimated Annual Other Costs Burden:* \$0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: August 13, 2024.

Darwin Arceo,

*Department Clearance Officer for PRA, U.S.
Department of Justice.*

[FR Doc. 2024–18407 Filed 8–16–24; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB 1140–0119]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Request for Interim Security Clearance—ATF Form 8620.70

AGENCY: Bureau of Alcohol, Tobacco,
Firearms and Explosives, Department of
Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 18, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, contact: Niki Wiltshire, Personnel Security Division, either by mail, at U.S. Department of Justice, PSD—Room (1E–300), 99 New York Ave. NE, Washington, DC 20226,

by email at Niki.Wiltshire@atf.gov, or telephone at 202–648–9260.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Abstract: The Request for Interim Security Clearance (ATF F 8620.70) is used to request approval for a candidate for Federal or Contractor employment at the Bureau of Alcohol, Tobacco, Firearms and Explosives to be granted an interim security clearance prior to the completion and adjudication of the individual's background investigation. The proposed information collection (IC) OMB # 1140–0119 is being revised to remove the option for one to delay an

interim security clearance and to replace it with the option for one to decline the risk associated with an interim security clearance. Additionally, a minor revision to the Paperwork Reduction Act Notice has been included.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Request for Interim Security Clearance.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: ATF Form 8620.70. Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Individuals or households. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,000 respondents will respond to this collection once annually, and it will take each respondent approximately 5 minutes to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 167 total hours, which is equal to 2,000 (total respondents) * 1 (# of response per respondent) * 0.08 (5 minutes).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* \$0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (minutes)	Total annual burden (hours)
ATF Form 8620.70	2,000	1	2,000	5	167
Unduplicated Totals .....	.....	.....	.....	.....	.....

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: August 14, 2024.
Darwin Arceo,
Department Clearance Officer for PRA, U.S. Department of Justice.
[FR Doc. 2024-18533 Filed 8-16-24; 8:45 am]
BILLING CODE 4410-FY-P

DEPARTMENT OF JUSTICE

[OMB Number 1190-0NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection; Clearance for Community Relations Service Program Feedback and Knowledge Gain (L1/L2)

AGENCY: Community Relations Service, Department of Justice.
ACTION: 60-Day notice.

SUMMARY: The Community Relations Service (CRS), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.
DATES: Comments are encouraged and will be accepted for 60 days until October 18, 2024.
FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or

additional information, please contact Melody Diegor Caprio, CRS/DOJ, at 202-353-1806 or *melody.caprio@usdoj.gov* located at 145 N ST. NE, Washington, DC 20002.
SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:
—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Community Relations Service, including whether the information will have practical utility;
—Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.
Abstract: Over the next three years, CRS and its evaluation contractor, Mathematica, anticipate collecting participant feedback for assessing ongoing programs across several areas within community outreach. The purpose of these collections is to gather feedback from participants who attended CRS programs and to use that information to assess participant satisfaction and implementation of the programs. The work may entail redesigning and/or modifying existing

programs based upon received feedback. CRS envisions using surveys via both electronic data collection and paper instruments.
Overview of This Information Collection
1. *Type of Information Collection:* New collection.
2. *The Title of the Form/Collection:* Clearance for Community Relations Service Program Feedback and Knowledge Gain (L1/L2).
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Agency form number is 1190. The applicable component within the Department of Justice is the Community Relations Service.
4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Participants of CRS programs in relevant jurisdictional fields; individuals; facilitators; state and local law enforcement, government officials, faith leaders, and community leaders; students; school administrators; and representatives of advocacy organizations. The obligation to respond is voluntary.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* We estimate that up to 1,435 individuals will be involved in the data collection annually over the three-year clearance period. The average time per response for the L1/L2 program feedback surveys is 10 minutes per response.
6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 120 hours.
7. *An estimate of the total annual cost burden associated with the collection, if applicable:* \$2,772.35.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (minutes)	Total annual burden (hours)
L1/L2 program feedback					
L1/L2 program feedback surveys	1,435	1	1,435	10	120
Unduplicated totals	1,435	.....	1,435	.....	120

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: August 14, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024-18507 Filed 8-16-24; 8:45 am]

BILLING CODE 4410-17-P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1829]

Charter Renewal of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Department of Justice.

ACTION: Notice of charter renewal.

SUMMARY: Notice that the charter of the Coordinating Council on Juvenile Justice and Delinquency Prevention has been renewed.

FOR FURTHER INFORMATION CONTACT: Visit the website for the Coordinating Council on Juvenile Justice and Delinquency Prevention at <https://juvenilecouncil.ojp.gov/> or contact Maegen Barnes, Project Manager/Federal Contractor, by telephone (732) 948-8862, email at Maegen.Currie@usdoj.gov; or Julie Herr, Designated Federal Official (DFO), OJJDP, by telephone at (202) 598-6885, email at Julie.Herr@usdoj.gov. Please note that the above phone numbers are not toll free.

SUPPLEMENTARY INFORMATION: This **Federal Register** Notice notifies the public that the Charter of the Coordinating Council on Juvenile Justice and Delinquency Prevention has been renewed in accordance with the Federal Advisory Committee Act, section 14(a)(1). The Coordinating Council on Juvenile Justice and Delinquency Prevention Charter was renewed on July 5, 2024. One can obtain a copy of the renewal Charter by accessing the Coordinating Council on Juvenile Justice and Delinquency

Prevention's website at <https://juvenilecouncil.ojp.gov/>.

Julie Herr,

Designated Federal Official, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2024-18508 Filed 8-16-24; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2024-0005]

National Advisory Committee on Occupational Safety and Health (NACOSH): Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of NACOSH meeting.

SUMMARY: The National Advisory Committee on Occupational Safety and Health (NACOSH) will meet September 9, 2024, by teleconference and WebEx.

DATES: NACOSH will meet from 10 a.m. to 12 p.m., ET, Monday, September 9, 2024.

ADDRESSES:

Submission of comments and requests to speak: Comments and requests to speak at the NACOSH meeting, including attachments, must be submitted electronically at www.regulations.gov, the Federal eRulemaking Portal by September 3, 2024. Comments must identify the docket number for this **Federal Register** notice (Docket No. OSHA-2024-0005). Follow the online instructions for submitting comments.

Registration: All persons wishing to attend this virtual meeting must register via the registration link on the NACOSH web page at <https://www.osha.gov/advisorycommittee/nacosh>. Upon registration, attendees will receive a WebEx link and dial-in information to access the meeting remotely.

Requests for special accommodations: Submit requests for special accommodations, including translation services, for this NACOSH meeting by September 3, 2024, to Ms. Janae Hughley, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693-2294; email: hughley.janae.a@dol.gov.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA-2024-0005). OSHA will place comments and requests to speak, including personal information, in the public docket, which

may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download documents in the public docket for this NACOSH meeting, go to <http://www.regulations.gov>. All documents in the public docket are listed in the index; however, some documents (e.g., copyrighted material) are not publicly available to read or download through <http://www.regulations.gov>. All submissions are available for inspection and, when permitted, copying through the OSHA Docket Office at the above address. For information on using <http://www.regulations.gov> to make submissions or to access the docket, click on the "Help" tab at the top of the homepage. Contact the OSHA Docket Office at (202) 693-2350 for information about materials not available through that website and for assistance in using the internet to locate submissions and other documents in the docket.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

For general information about NACOSH: Ms. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor; telephone: (202) 693-2066; email: wangdahl.amy@dol.gov.

Telecommunication requirements: For additional information about the telecommunication requirements for the meeting, please contact Ms. Janae Hughley, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693-2294; email: hughley.janae.a@dol.gov.

*For copies of this **Federal Register** Notice:* Electronic copies of this **Federal Register** notice are available at www.regulations.gov. This notice, as well as news releases and other relevant information, are also available at OSHA's web page at <https://www.osha.gov/advisorycommittee/nacosh>.

SUPPLEMENTARY INFORMATION:

I. Background

NACOSH was established by section 7(a) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 656) to advise, consult with, and make recommendations to the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the OSH Act. NACOSH is a continuing advisory committee of indefinite duration.

NACOSH operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. 1001 *et seq.*), its implementing regulations (41 CFR part 102–3), and OSHA’s regulations on NACOSH (29 CFR 1912.5 and 29 CFR part 1912a).

II. Meeting Information

Public attendance will be in virtually via WebEx. Meeting information will be posted in the docket (Docket No. OSHA–2024–0005) and on the NACOSH web page, <https://www.osha.gov/advisorycommittee/nacosh>, prior to the meeting.

NACOSH will meet from 10 a.m. to 12 p.m., ET on September 9, 2024.

Meeting agenda: The tentative agenda for this meeting includes:

- OSHA Updates;
- NIOSH Updates;
- OSHA Recognition Program Updates; and
- Safety as a Core Value Update.

Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655(b)(1) and 656(b), 5 U.S.C. 1001 *et seq.*, 29 CFR part 1912 and 1912a, and Secretary of Labor’s Order No. 8–2020 (85 FR 58393, September 18, 2020).

Signed at Washington, DC, on August 13, 2024.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2024–18509 Filed 8–16–24; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 24–051]

Name of Information Collection: Survey of the Use of NASA Earth Observation Data by States, Tribes, and Territories

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: NASA, 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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by September 18, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice at www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting “Office of Personnel Management” under “Currently Under Review,” then check “Only Show ICR for Public Comment” checkbox.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of a requirement from the CHIPS and Science Act of 2022 (Pub. L. 117–167, div. B, title VII, sec. 10824, Aug. 9, 2022, 136 Stat. 1742) the NASA Administrator shall arrange for the conduct of a survey of the use of NASA Earth observation data by States, Tribal organizations, and territories. The collection of this information will enable the agency to understand how Earth observation data is used, how it might impact decision making, and where any gaps might exist.

II. Methods of Collection

Electronic, virtual focus groups, and in-person focus groups.

III. Data

Title: Survey of the Use of NASA Earth Observation Data by States, Tribes, and Territories.

OMB Number: 2700–new.

Type of review: New collection.

Affected Public: Officials representing states, tribes, and territories.

Estimated Annual Number of Activities: 2.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 2,000.

Estimated Time per Response: 1.25 hours (focus group + quantitative survey).

Estimated Total Annual Burden Hours: 2,500.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of

NASA’s estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–18464 Filed 8–16–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2024–051]

Freedom of Information Act (FOIA) Advisory Committee Meetings

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

ACTION: Notice of meetings.

SUMMARY: We are announcing two upcoming Freedom of Information Act (FOIA) Advisory Committee meetings in accordance with the Federal Advisory Committee Act and the second United States Open Government National Action Plan.

DATES: The meetings will be on Monday, September 9, 2024, from 10 a.m. to 1 p.m. EDT and Friday, September 13, 2024, from 10 a.m. to 1 p.m. EDT. You must register by 11:59 p.m. EDT September 7, 2024, and 11:59 p.m. EDT September 11, 2024, respectively, to attend the meetings. (See registration information below.)

ADDRESSES: The September 9, 2024, meeting will be held in the William G. McGowan Theater at the National Archives Building, 700 Pennsylvania NW, Washington, DC. The September 13, 2024, meeting will be a virtual meeting. We will send access instructions for each meeting to those who register according to the instructions below.

FOR FURTHER INFORMATION CONTACT:

Kirsten Mitchell, Designated Federal Officer for this committee, by email at foia-advisory-committee@nara.gov, or by telephone at 202.741.5770.

SUPPLEMENTARY INFORMATION:

Agendas and meeting materials: We will post all meeting materials, including the agendas, at <https://www.archives.gov/ogis/foia-advisory-committee/2024-2026-term>.

These meetings will be the first and second of the sixth committee term. The purpose of the meetings will be to introduce the members and the work of the committee, establish subcommittees and, for each subcommittee, select co-chairs (one government co-chair and one non-government co-chair).

Procedures: These meetings are open to the public in accordance with the Federal Advisory Committee Act, (5 U.S.C. 1001–1014). If you wish to offer oral public comments during the public comments periods of the meetings, you must register in advance (see deadlines in Dates section above) through Eventbrite at: (1) <https://www.eventbrite.com/e/freedom-of-information-act-advisory-committee-meeting-sept-9-2024-tickets-978278285687> for the September 9, 2024, meeting; and (2) <https://www.eventbrite.com/e/freedom-of-information-act-foia-advisory-committee-mtg-sept-13-2024-tickets-978228988237> for the September 13, 2024, meeting.

Public comments for both meetings will be limited to three minutes per individual. Oral public comments must be made in person at the September 9, 2024, meeting and virtually at the September 13, 2024, meeting. If you plan to attend the September 9, 2024, meeting in person, you will go through security screening when you enter the building.

For both meetings, you must provide an email address so that we can provide you with information to access the meeting. We will also live-stream both meetings on the National Archives YouTube channel, <https://www.youtube.com/user/usnationalarchives>, and include a captioning option.

To request additional accommodations (e.g., a transcript), email foia-advisory-committee@nara.gov or call 202.741.5770. Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Kirsten Mitchell (contact information listed above).

Merrily Harris,

Committee Management Officer.

[FR Doc. 2024–18501 Filed 8–16–24; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**National Endowment for the Arts****30-Day Notice for the “Shakespeare in American Communities/Juvenile Justice: Data Collection Forms”; Proposed Collection; Comment Request**

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Shakespeare in American Communities/Juvenile Justice: Data Collection Forms for subawardees, which will include a data collection form for teaching artists and supplemental application and final report forms. Copies of this ICR, with applicable supporting documentation, may be obtained by visiting www.Reginfo.gov.

DATES: Written comments must be submitted to the office listed in the address section below within 30 days from the date of this publication in the **Federal Register**.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting “National Endowment for the Arts” under “Currently Under Review;” then check “Only Show ICR for Public Comment” checkbox. Once you have found this information collection request, select “Comment,” and enter or upload your comment and information. Alternatively, comments can be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

- 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.

Agency: National Endowment for the Arts.

Title: Shakespeare in American Communities/Juvenile Justice: Data Collection Forms.

OMB Number: New.

Frequency: Web survey administered twice annually, annual supplemental applicant and final report forms.

Affected Public: Nonprofit organizations and individuals.

Estimated Number of Respondents: 35. 20 teaching artists per year responding to the web survey (administered twice annually), and around 15 institutions per year for both the supplemental application and supplemental final report forms.

Estimated time per respondent: 1.69 hours (average).

Total Burden Hours: 59 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Shakespeare in American Communities (SiAC) is a theater program that brings professional performances of William Shakespeare’s plays and related educational activities to middle and high school students in communities across the United States, including youth in juvenile justice facilities. The National Endowment for the Arts (NEA) is the lead funder of the program, which is administered by an organization engaged by the NEA under a cooperative agreement (the Cooperator). This request is for a new data collection associated with SiAC juvenile justice subawards (SiAC/JJ): a teaching artist web form that has not been conducted in the past, as well as two supplemental forms—a supplemental application form and a supplemental final report form for subrecipients. This new data collection provides the NEA with enhanced capability for monitoring program performance of juvenile justice subawards, including understanding

how subaward projects are implemented and outcomes associated with each project. Specifically, NEA and the Cooperator will use data from the forms to collect information on the inputs, activities, and outputs of each subrecipient program identified in the program's measurement framework. In addition, information from the teaching artist data collection form will be used to understand student and teacher outcomes and potential successes that resulted from the subrecipient programs. The data will inform internal NEA and Cooperator discussions about project implementation and performance, potential program improvements, and decision-making related to this program. The Cooperator may also use the data to report on successes of the program in reports and storytelling. This request is for a full clearance to administer the web survey and supplemental forms.

Dated: August 14, 2024.

RaShaunda Thomas,

Administrative Officer (Deputy), Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2024-18524 Filed 8-16-24; 8:45 am]

BILLING CODE 7537-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2023-192; MC2024-501 and CP2024-508; MC2024-502 and CP2024-509; MC2024-503 and CP2024-510]

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:* August 21, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

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):* CP2023-192; *Filing Title:* Notice of the United States Postal Service of Filing Modification One to Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 23; *Filing Acceptance Date:* August 13, 2024; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Katalin

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).

K. Clendenin; *Comments Due:* August 21, 2024.

2. *Docket No(s):* MC2024-501 and CP2024-508; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, & USPS Ground Advantage Contract 214 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 13, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* August 21, 2024.

3. *Docket No(s):* MC2024-502 and CP2024-509; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, & USPS Ground Advantage Contract 215 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 13, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* August 21, 2024.

4. *Docket No(s):* MC2024-503 and CP2024-510; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, & USPS Ground Advantage Contract 216 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 13, 2024; *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:* August 21, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024-18531 Filed 8-16-24; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100723; File No. SR-NYSEARCA-2024-06]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of Proposed Rule Change To Permit the Exchange To List and Trade Options on Exchange-Traded Fund Shares That Represent Interests in a Commodity-Based Trust

August 13, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² NYSE Arca, Inc. ("NYSE Arca") filed with the Securities and Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Commission (“Commission”) a proposed rule change to permit the Exchange to list and trade options on exchange-traded fund shares that represent interests in a commodity-based trust (“Proposal”).

On January 25, 2024, the Proposal was published for comment in the **Federal Register**.³ On March 6, 2024, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the Proposal, disapprove the Proposal, or institute proceedings to determine whether to disapprove the Proposal.⁵ On April 24, 2024, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the Proposal.⁷ The Commission received comments addressing the Proposal.⁸

On July 19, 2024, the Commission designated a longer time for Commission action on the Proposal.⁹ On August 9, 2024, NYSE Arca withdrew the Proposal (SR-NYSEARCA-2024-06).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18477 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, August 22, 2024.

PLACE: The meeting will be held via remote means and/or at the Commission’s headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain

staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission’s website at <https://www.sec.gov>.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

- Institution and settlement of injunctive actions;

- Institution and settlement of administrative proceedings;

- Resolution of litigation claims; and

- Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION:

For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: August 15, 2024.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-18622 Filed 8-15-24; 4:15 pm]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100717; File No. SR-CboeEDGA-2024-030]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Replace the Regulatory Transaction Fee With a Sales Value Fee

August 13, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 30, 2024, Cboe EDGA Exchange, Inc. (the “Exchange”) filed with the Securities

and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/edga/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to add language concerning the application and collection of the Sales Value Fee, as described below.

By way of background, Section 31 of the Securities Exchange Act of 1934 (the “Act”) ³ requires each self-regulatory organization (“SRO”) to pay the Securities and Exchange Commission (“SEC” or “Commission”) twice annually a fee based on the aggregate dollar amount of certain sales of securities (*i.e.*, “covered sales”). A covered sale is a “sale of a security, other than an exempt sale or a sale of a security future, occurring on a national securities exchange or by or through any member of a national securities association otherwise than on

³ See Securities Exchange Act Release No. 99398 (Jan. 19, 2024), 89 FR 5029.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 99683 (Mar. 6, 2024), 89 FR 17888 (Mar. 12, 2024).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 100023 (Apr. 24, 2024), 89 FR 34295 (Apr. 30, 2024).

⁸ Comment letters on the Proposal are available at <https://www.sec.gov/comments/sr-nysearca-2024-06/srnysearca202406.htm>.

⁹ See Securities Exchange Act Release No. 100565 (Jul. 19, 2024), 89 FR 60460 (Jul. 25, 2024).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.31.

a national securities exchange.”⁴ Assessing a sales fee to defray the cost of these fees is common practice among the national securities exchanges and associations, including the Exchange’s affiliate options exchanges.⁵ In fact, the Exchange currently assesses a fee on its Members⁶ for covered sales on the Exchange to recoup these amounts, which is described in Exchange Rule 15.1(b) (Regulatory Transaction Fee) but is not currently described on the Exchange’s Fee Schedule. The Exchange now proposes to amend its Fee Schedule to include information regarding this fee, including an explanation and description of the fee and how it is collected. In conjunction with the proposed addition to the Fee Schedule, the exchange also proposes to delete the applicable rule text found in Exchange Rule 15.1(b) and proposes to rename Rule 15.1(b) as “Reserved.”

Specifically, the Exchange proposes to add a section to the Fee Schedule labeled “Sales Value Fee”. The proposed new section defines the Sales Value Fee (“Fee”) as the fee assessed by the Exchange to each Member for sales in securities when a sale in an equity security occurs with respect to which the Exchange is obligated to pay a fee to the SEC under Section 31 of the Exchange Act or when a sell order in an equity security is routed for execution at a market other than the Exchange, resulting in a covered sale on that market and an obligation of the routing broker providing routing services for the Exchange, as described in Exchange Rules 2.11 and 2.12, to pay the related sales fee of that market. The proposed section provides that to the extent the Exchange may collect more from Members under the section than is due from the Exchange to the Commission under Section 31 of the Act, for example due to rounding differences, the excess monies collected may be used by the Exchange to fund its general operating expenses. The Exchange may reimburse its routing broker for all Section 31-related fees incurred by the routing broker in connection with the routing services it provides.

The proposed section explains that the transactions to which the Fee applies are sales of equities. The Fee is collected indirectly from Members through their clearing firms by the Depository [sic] Trust & Clearing Corporation (“DTCC”) on behalf of the Exchange with respect to sales in equity securities.⁷ For Members who do not have a DTCC account, the Exchange invoices these Members directly.

The proposed section also sets forth the formula for calculating the Fee. Specifically, the Fee with respect to sales in equity securities is equal to (i) the Section 31 fee rate⁸ multiplied by (ii) the Member’s aggregate dollar amount of covered sales resulting from equities transactions that have a charge date in that month.⁹ The Fee is calculated and invoiced by the Exchange on a monthly basis, but is not paid to the Commission until the end of the applicable billing period.¹⁰ The billing period for Section 31-related fees is separated into two periods: (i) January 1 through August 31; and (ii) September 1 through December 31.¹¹ The Exchange notes that if the SEC’s Section 31 fee rate changes in the middle of a month, the Exchange will perform a separate calculation with respect to covered sales under the new fee rate for the remaining portion of the month.

In addition to the Exchange’s proposal to add the Fee to its Fee Schedule, the Exchange simultaneously proposes to delete the rule text found in Exchange Rule 15.1(b). Exchange Rule 15.1(b) currently provides a description of the Fee within the Exchange rulebook, which would be duplicative as the Fee will be set forth and more fully described in the Fee Schedule. The Exchange notes that the Fee, as described in Exchange Rule 15.1(b), is described only at a high-level and does not contain specific details about how the Exchange currently calculates and collects the Fee. Specifically, Exchange Rule 15.1(b) merely states that the Exchange assesses a Regulatory Transaction Fee to its Members in order to help fund the Exchange’s obligations to the Commission under Section 31. While Exchange Rule 15.1(b) does state how the Fee is calculated (which is

identical to the proposed calculation described on the Fee Schedule), there is no description of the types of transactions that trigger the Fee or how the fee is collected by the Exchange. The Exchange proposes to more fully describe its current practice of calculating and collecting the Fee by providing additional details on the Fee Schedule. In conjunction with removing the rule text in Exchange Rule 15.1(b), the Exchange proposes to rename Exchange Rule 15.1(b) as “Reserved.”

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁵ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes that the proposed rule change is consistent with these requirements because the proposed amended Fee Schedule text provides Members with detail regarding the circumstances under which the Exchange assesses a Sales Value Fee, and the current process by which the Fee is collected. The Exchange’s current codification of the Fee in Exchange Rule 15.1(b) does not accurately depict the Exchange’s current practice of

⁴ 17 CFR 240.31(a)(6).

⁵ See, e.g. Cboe C2 Options Fee Schedule, Sales Value Fee; NASDAQ Equities Price List, Sales Fees to Fund Section 31 Obligations; and NYSE Arca Rule 2.18 (Activity Assessment Fees).

⁶ See Rule 1.5(n). The term “Member” shall mean any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a “member” of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange.

⁷ See https://cdn.cboe.com/resources/membership/Direct_Debit_Opt-In_Form.pdf.

⁸ The Section 31 fee rate is the fee rate applicable to covered sales under section 31(b) of the Act. See 15 U.S.C. 78ee(b). The current rate applicable to equities securities transactions is \$27.80 per million dollars. See also https://cdn.cboe.com/resources/fee_schedule/2024/Regulatory-Transaction-Fee-Adjustment-per-SEC-Section-31-Rate-Change-Effective-May-22-2024.pdf.

⁹ 17 CFR 240.31(c).

¹⁰ 17 CFR 240.31(c)(1).

¹¹ 17 CFR 240.31(a)(2).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78f(b)(4).

calculating and collecting the Fee. The Exchange believes that amending the description of the Fee and placing this description on its Fee Schedule rather than in the Exchange rulebook will provide additional guidance to its Members about which transactions are subject to the Fee, how the Fee is calculated, and how the Fee is collected. As such, the proposed changes will increase transparency, help avoid Member confusion and foster better understanding of the application of the Fee, which the Exchange believes the [sic] promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest. Further, the Exchange believes the proposed change is reasonable, as the Exchange is proposing to assess the same Fee to its Members that the Exchange must pay to the Commission twice annually.

The Exchange believes the proposed change represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to all Members in that all Members submitting covered orders to the Exchange are assessed the Fee, which is equal to the fee that the Exchange is required to pay to the Commission. Furthermore, by moving the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule, all Members will have additional information about the types of orders subject to the Fee and how the Exchange collects the Fee from its Members, which do not currently appear in Exchange Rule 15.1(b). While Exchange Rule 15.1(b) describes at a high-level the Exchange's ability to assess a fee in order to help fund the Exchange's obligations under Section 31, it does not accurately depict the Exchange's current practice in regard to calculating and collecting the Fee from its Members. The proposed movement of the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule will not change how the Exchange calculates or collects the Fee from its Members, but rather will provide a more complete and accurate description of the Fee to all Members. All Members will be able to access a detailed description of the Fee on the Fee Schedule and as such, the description of the Fee found in Exchange Rule 15.1(b) that does not accurately describe the Exchange's current practice in calculating or collecting the Fee is no longer necessary.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes will impose any burden on intramarket competition. Particularly, the proposed change applies uniformly to all Members, in that the Sales Value Fee is applied uniformly to all Members' applicable covered orders. Similarly, the proposal to delete Rule 15.1(b) from the Exchange rulebook will not impose any burden on competition because the change applies to all Members uniformly, in that all Members will instead be able to access the description of the Sales Value Fee and how the Fee is calculated on the Fee Schedule.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, assessing a sales fee to defray the cost of fees assessed under Section 31 of the Act is common practice among the national securities exchanges and associations.¹⁶

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

¹⁶ *Supra* note 5.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGA-2024-030 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-CboeEDGA-2024-030. 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-CboeEDGA-2024-030 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–18471 Filed 8–16–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–348, OMB Control No. 3235–0394]

Submission for OMB Review; Comment Request; Extension: Rule 15g–5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the previously approved collection of information provided for in Rule 15g–5—Disclosure of Compensation of Associated Persons in Connection with Penny Stock Transactions—(17 CFR 240.15g–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15g–5 requires brokers and dealers to disclose to customers the amount of compensation to be received by their sales agents in connection with penny stock transactions. The purpose of the rule is to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions.

The Commission estimates that approximately 170 broker-dealers will spend an average of approximately 87 hours annually to comply with the rule. Thus, the total time burden is approximately 14,790 burden-hours per year.

Rule 15g–5 contains record retention requirements. Compliance with the rule is mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting

“Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent by September 18, 2024 to (i) www.reginfo.gov/public/do/PRAMain and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: August 13, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–18461 Filed 8–16–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100714; File No. SR–CboeEDGX–2024–048]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Replace the Regulatory Transaction Fee With a Sales Value Fee

August 13, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 30, 2024, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to add language concerning the application and collection of the Sales Value Fee, as described below.

By way of background, Section 31 of the Securities Exchange Act of 1934 (the “Act”) ³ requires each self-regulatory organization (“SRO”) to pay the Securities and Exchange Commission (“SEC” or “Commission”) twice annually a fee based on the aggregate dollar amount of certain sales of securities (*i.e.*, “covered sales”). A covered sale is a “sale of a security, other than an exempt sale or a sale of a security future, occurring on a national securities exchange or by or through any member of a national securities association otherwise than on a national securities exchange.” ⁴ Assessing a sales fee to defray the cost of these fees is common practice among the national securities exchanges and associations, including the Exchange’s affiliate options exchanges.⁵ In fact, the Exchange currently assesses a fee on its Members⁶ for covered sales on the Exchange to recoup these amounts, which is described in Exchange Rule 15.1(b) (Regulatory Transaction Fee) but

³ 17 CFR 240.31.

⁴ 17 CFR 240.31(a)(6).

⁵ See, e.g. Cboe C2 Options Fee Schedule, Sales Value Fee; NASDAQ Equities Price List, Sales Fees to Fund Section 31 Obligations; and NYSE Arca Rule 2.18 (Activity Assessment Fees).

⁶ See Rule 1.5(n). The term “Member” shall mean any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a “member” of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange.

¹⁹ 17 CFR 200.30–3(a)(12).

is not currently described on the Exchange's Fee Schedule. The Exchange now proposes to amend its Fee Schedule to include information regarding this fee, including an explanation and description of the fee and how it is collected. In conjunction with the proposed addition to the Fee Schedule, the exchange also proposes to delete the applicable rule text found in Exchange Rule 15.1(b) and proposes to rename Rule 15.1(b) as "Reserved."

Specifically, the Exchange proposes to add a section to the Fee Schedule labeled "Sales Value Fee". The proposed new section defines the Sales Value Fee ("Fee") as the fee assessed by the Exchange to each Member for sales in securities when a sale in an equity security occurs with respect to which the Exchange is obligated to pay a fee to the SEC under Section 31 of the Exchange Act or when a sell order in an equity security is routed for execution at a market other than the Exchange, resulting in a covered sale on that market and an obligation of the routing broker providing routing services for the Exchange, as described in Exchange Rules 2.11 and 2.12, to pay the related sales fee of that market. The proposed section provides that to the extent the Exchange may collect more from Members under the section than is due from the Exchange to the Commission under Section 31 of the Act, for example due to rounding differences, the excess monies collected may be used by the Exchange to fund its general operating expenses. The Exchange may reimburse its routing broker for all Section 31-related fees incurred by the routing broker in connection with the routing services it provides.

The proposed section explains that the transactions to which the Fee applies are sales of equities. The Fee is collected indirectly from Members through their clearing firms by the Depository [sic] Trust & Clearing Corporation ("DTCC") on behalf of the Exchange with respect to sales in equity securities.⁷ For Members who do not have a DTCC account, the Exchange invoices these Members directly.

The proposed section also sets forth the formula for calculating the Fee. Specifically, the Fee with respect to sales in equity securities is equal to (i) the Section 31 fee rate⁸ multiplied by

(ii) the Member's aggregate dollar amount of covered sales resulting from equities transactions that have a charge date in that month.⁹ The Fee is calculated and invoiced by the Exchange on a monthly basis, but is not paid to the Commission until the end of the applicable billing period.¹⁰ The billing period for Section 31-related fees is separated into two periods: (i) January 1 through August 31; and (ii) September 1 through December 31.¹¹ The Exchange notes that if the SEC's Section 31 fee rate changes in the middle of a month, the Exchange will perform a separate calculation with respect to covered sales under the new fee rate for the remaining portion of the month.

In addition to the Exchange's proposal to add the Fee to its Fee Schedule, the Exchange simultaneously proposes to delete the rule text found in Exchange Rule 15.1(b). Exchange Rule 15.1(b) currently provides a description of the Fee within the Exchange rulebook, which would be duplicative as the Fee will be set forth and more fully described in the Fee Schedule. The Exchange notes that the Fee, as described in Exchange Rule 15.1(b), is described only at a high-level and does not contain specific details about how the Exchange currently calculates and collects the Fee. Specifically, Exchange Rule 15.1(b) merely states that the Exchange assesses a Regulatory Transaction Fee to its Members in order to help fund the Exchange's obligations to the Commission under Section 31. While Exchange Rule 15.1(b) does state how the Fee is calculated (which is identical to the proposed calculation described on the Fee Schedule), there is no description of the types of transactions that trigger the Fee or how the fee is collected by the Exchange. The Exchange proposes to more fully describe its current practice of calculating and collecting the Fee by providing additional details on the Fee Schedule. In conjunction with removing the rule text in Exchange Rule 15.1(b), the Exchange proposes to rename Exchange Rule 15.1(b) as "Reserved."

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule

change is consistent with the Section 6(b)(5)¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁵ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes that the proposed rule change is consistent with these requirements because the proposed amended Fee Schedule text provides Members with detail regarding the circumstances under which the Exchange assesses a Sales Value Fee, and the current process by which the Fee is collected. The Exchange's current codification of the Fee in Exchange Rule 15.1(b) does not accurately depict the Exchange's current practice of calculating and collecting the Fee. The Exchange believes that amending the description of the Fee and placing this description on its Fee Schedule rather than in the Exchange rulebook will provide additional guidance to its Members about which transactions are subject to the Fee, how the Fee is calculated, and how the Fee is collected. As such, the proposed changes will increase transparency, help avoid Member confusion and foster better understanding of the application of the Fee, which the Exchange believes promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest. Further, the Exchange believes the proposed change is reasonable, as the Exchange is proposing to assess the same Fee to its

⁷ See https://cdn.cboe.com/resources/membership/Direct_Debit_Opt-In_Form.pdf.

⁸ The Section 31 fee rate is the fee rate applicable to covered sales under section 31(b) of the Act. See 15 U.S.C. 78ee(b). The current rate applicable to equities securities transactions is \$27.80 per million dollars. See also https://cdn.cboe.com/resources/fee_schedule/2024/Regulatory-Transaction-Fee-Adjustment-per-SEC-Section-31-Rate-Change-Effective-May-22-2024.pdf.

⁹ 17 CFR 240.31(c).

¹⁰ 17 CFR 240.31(c)(1).

¹¹ 17 CFR 240.31(a)(2).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78f(b)(4).

Members that the Exchange must pay to the Commission twice annually.

The Exchange believes the proposed change represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to all Members in that all Members submitting covered orders to the Exchange are assessed the Fee, which is equal to the fee that the Exchange is required to pay to the Commission. Furthermore, by moving the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule, all Members will have additional information about the types of orders subject to the Fee and how the Exchange collects the Fee from its Members, which do not currently appear in Exchange Rule 15.1(b). While Exchange Rule 15.1(b) describes at a high-level the Exchange's ability to assess a fee in order to help fund the Exchange's obligations under Section 31, it does not accurately depict the Exchange's current practice in regard to calculating and collecting the Fee from its Members. The proposed movement of the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule will not change how the Exchange calculates or collects the Fee from its Members, but rather will provide a more complete and accurate description of the Fee to all Members. All Members will be able to access a detailed description of the Fee on the Fee Schedule and as such, the description of the Fee found in Exchange Rule 15.1(b) that does not accurately describe the Exchange's current practice in calculating or collecting the Fee is no longer necessary.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes will impose any burden on intramarket competition. Particularly, the proposed change applies uniformly to all Members, in that the Sales Value Fee is applied uniformly to all Members' applicable covered orders. Similarly, the proposal to delete Rule 15.1(b) from the Exchange rulebook will not impose any burden on competition because the change applies to all Members uniformly, in that all Members will instead be able to access the description of the Sales Value Fee and how the Fee is calculated on the Fee Schedule.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, assessing a sales fee to defray the cost of fees assessed under Section 31 of the Act is common practice among the national securities exchanges and associations.¹⁶

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2024-048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-CboeEDGX-2024-048. This

file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGX-2024-048 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18468 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

¹⁶ *Supra* note 5.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

¹⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100724; File Nos. PCAOB–2024–02, PCAOB–2024–03, PCAOB–2024–04]

Public Company Accounting Oversight Board; Extension of Approval Periods for Proposed Rules on a Firm's System of Quality Control and Related Amendments to PCAOB Standards, Proposed Rules on Amendments Related to Aspects of Designing and Performing Audit Procedures That Involve Technology-Assisted Analysis of Information in Electronic Form, and Proposed Rules on Amendment to PCAOB Rule 3502 Governing Contributory Liability

August 13, 2024.

On May 24 and June 20, 2024, the Public Company Accounting Oversight Board (“PCAOB”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² the proposed rules referenced above (collectively, the “proposed rules”).³ The Quality Control Proposed Rules were published for comment in the **Federal Register** on June 11, 2024. The Technology-Assisted Analysis Proposed Rules and Contributory Liability Proposed Rules were each published for comment in the **Federal Register** on July 2, 2024.⁴ The Commission provided a 21-day public comment period for the proposed rules,⁵ which ended on July 2 for the Quality Control Proposed Rules and July 23, 2024 for the Technology Assisted Analysis Proposed Rules and Contributory Liability Proposed Rules.

Section 19(b)(2) of the Act⁶ provides that no later than 45 days after the date of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the

Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization⁷ consents, the Commission shall either approve or disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the proposed rules is July 26, 2024, for the Quality Control Proposed Rules and August 16, 2024, for each of the Technology Assisted Analysis Proposed Rules and the Contributory Liability Proposed Rules.

On July 1, 2024, the Commission extended the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the Quality Control Proposed Rules to August 25, 2024.⁸ To provide additional time for consideration of the Quality Control Proposed Rules and the issues raised therein, the Commission finds it appropriate to extend the time period within which the Commission must take action on those proposed rules for up to an additional 15 days. To provide additional time for consideration of the Technology-Assisted Analysis Proposed Rules and the Contributory Liability Proposed Rules and the issues raised therein, the Commission finds it appropriate to extend the time period within which the Commission must take action on those proposed rules for up to seven days. Accordingly, pursuant to Section 19(b)(2) of the Act,⁹ the Commission extends the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rules to August 23, 2024 for the Technology Assisted Analysis Proposed Rules and the Contributory Liability Proposed Rules (File Nos. PCAOB–2024–03, PCAOB–2024–04) and September 9, 2024 (File No. PCAOB–2024–02).

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–18491 Filed 8–16–24; 8:45 am]

BILLING CODE 8011–01–P

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Proposed Rules Relating to A Firm's System of Quality Control and Related Amendments to PCAOB Standards (the “Quality Control Proposed Rules”) were filed with the Commission on May 24, 2024, and the Amendments Related to Aspects of Designing and Performing Audit Procedures that Involve Technology-Assisted Analysis of Information in Electronic Form (the “Technology-Assisted Analysis Proposed Rules”), and Amendment to PCAOB Rule 3502 Governing Contributory Liability (the “Contributory Liability Proposed Rules”) were filed on June 20, 2024.

⁴ See Securities Exchange Act Release No. 34–100277 (June 5, 2024) [89 FR 49588 (June 11, 2024)], and Securities Exchange Act Release Nos. 34–100429 and 34–100430 (June 26, 2024) [89 FR 54895 and 89 FR 54922 (July 2, 2024)].

⁵ See *id.*

⁶ 15 U.S.C. 78s(b)(2).

⁷ The term “self-regulatory organization” includes a “registered securities association.” See Section 3(a)(26) of the Act. Section 107(b)(4) of the Sarbanes-Oxley Act of 2002 states that the provisions of Sections 19(b)(1) through (3) of the Act shall govern the proposed rules of the PCAOB as fully as if the PCAOB were a registered securities association for purposes of that Section.

⁸ See <https://www.sec.gov/files/rules/pcaob/2024/34-100451.pdf>.

⁹ 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100722; File No. SR–GEMX–2024–27]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7, Section 3

August 13, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 1, 2024, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7, Section 3.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/gemx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Pricing Schedule at Options 7, Section 3.

Today, as set forth in Options 7, Section 3, the Exchange assesses Market Makers³ and Priority Customers⁴ the

below tiered maker/taker pricing for adding/removing liquidity in Penny Symbols.

Market participant	Maker rebate: Tier 1	Maker rebate: Tier 2	Maker rebate: Tier 3	Maker rebate: Tier 4	Maker rebate: Tier 5	Taker fee: Tier 1	Taker fee: Tier 2	Taker fee: Tier 3	Taker fee: Tier 4	Taker fee: Tier 5
Market Maker	(\$0.20)	(\$0.25)	(\$0.30)	(\$0.32)	(\$0.41)	\$0.50	\$0.50	\$0.50	\$0.50	\$0.48
Priority Customer	(0.25)	(0.43)	(0.48)	(0.51)	(0.53)	0.41	0.41	0.41	0.41	0.41

The Exchange now proposes to assess Market Makers and Priority Customers separate pricing for SPY, QQQ, and IWM in lieu of the maker/taker pricing set forth above for other Penny Symbols. First, the Exchange proposes to pay Market Makers a \$0.41 per contract Maker Rebate in Tiers 1–5 for SPY, QQQ, and IWM (instead of the current Maker Rebates in Tiers 1–5 ranging from \$0.20 to \$0.41 per contract).⁵ Second, the Exchange proposes to assess Priority Customers a \$0.45 per contract Taker Fee in Tiers 1–5 for SPY, QQQ, and IWM (instead of the current \$0.41 per contract Taker Fee in Tiers 1–5).⁶ Third, the Exchange proposes to reduce the new \$0.45 per contract Taker Fee in Tiers 1–5 for SPY, QQQ, and IWM by \$0.02 per contract when the Preferred Market Maker⁷ transacts against a Priority Customer Order directed to that Preferred Market Maker for execution.⁸

The Exchange will set forth the above changes in proposed notes 15 and 17 of Options 7, Section 3. Proposed note 15 will provide: “Market Maker Tier 1 through Tier 5 Maker Rebates in Penny Symbols will be (\$0.41) per contract for the following option symbols: SPY, QQQ and IWM. Priority Customer Tier 1 through Tier 5 Taker Fees in Penny Symbols will be \$0.45 per contract for the following option symbols: SPY, QQQ and IWM.” Proposed note 17 will provide: “Priority Customer Tier 1 through Tier 5 Taker Fees in SPY, QQQ, and IWM set forth in note 15 above will be decreased by \$0.02 per contract when the Preferred Market Maker transacts against a Priority Customer Order directed to that Preferred Market Maker for execution.”

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁰ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange’s proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”¹¹

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while

adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹²

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of seventeen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange believes that the proposed changes to the maker/taker pricing in SPY, QQQ, and IWM for Market Makers and Priority Customers in the manner described above are reasonable, equitable and not unfairly discriminatory for the reasons that follow.

The Exchange believes it is reasonable to pay Market Makers a \$0.41 per contract Maker Rebate in Tiers 1–5 for SPY, QQQ, and IWM (instead of the current Maker Rebates in Tiers 1–5 ranging from \$0.20 to \$0.41 per contract) because the proposed changes are intended to encourage Market Makers to add more liquidity in these three symbols. Specifically, the proposal

³ A “Market Maker” is a market maker as defined in Nasdaq GEMX Options 1, Section 1(a)(21).

⁴ A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq GEMX Options 1, Section 1(a)(36).

⁵ See proposed note 15 of Options 7, Section 3.

⁶ See *id.*

⁷ Today, an Electronic Access Member may designate a “Preferred Market Maker” on orders it enters into the System. A Preferred Market Maker may be the Primary Market Maker appointed to the

options class or any Competitive Market Maker appointed to the options class. Market Makers may be categorized as Preferred Market Makers when such Market Makers execute against a “Preferred Order” directed to them for execution by an Order Flow Provider. An Order Flow Provider means any Member that submits, as agent, orders to the Exchange. The Preferred Market Maker must be quoting at the better of the internal BBO or NBBO at the time the Preferred Order is received in order to receive the Preferred Market Maker allocation described in Options 3, Section 10(c)(1)(C). See Options 2, Section 10. See also Securities Exchange Act Release No. 100612 (July

29, 2024) (SR–GEMX–2024–20) (amending, among other changes that are immediately effective but not yet operative, Options 2, Section 10 that sets forth the aforementioned definitions).

⁸ See proposed note 17 of Options 7, Section 3.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

¹¹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

¹² Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

generally provides Market Makers significantly higher Maker Rebates in SPY, QQQ, and IWM than they receive today except for the Tier 5 Maker Rebate, which is currently the highest Maker Rebate in Penny Symbols for Market Makers and will remain the same as today. Accordingly, the Exchange believes that Market Makers will continue to be incentivized to add liquidity in these symbols on the Exchange. Increased liquidity benefits all market participants by deepening the Exchange's liquidity pool and supporting the quality of price discovery.

The Exchange also believes that it is reasonable to assess Priority Customers a \$0.45 per contract Taker Fee in Tiers 1–5 for SPY, QQQ, and IWM (instead of the current \$0.41 per contract Taker Fee in Tiers 1–5). While Priority Customers will be charged higher Taker Fees for SPY, QQQ, and IWM than the Taker Fees currently assessed, the Exchange believes that the increased Taker Fees are appropriate to offset the proposed Maker Market Maker Rebates for SPY, QQQ, and IWM. Furthermore, Priority Customers will continue to be assessed lower Taker Fees in Penny Symbols compared to all other market participants today.¹³

The Exchange believes that reducing the Priority Customer Taker Fee in Tiers 1–5 for SPY, QQQ, and IWM by \$0.02 per contract when the Preferred Market Maker transacts against a Priority Customer Order directed to that Preferred Market Maker for execution is reasonable because the Exchange seeks to incentivize Members to direct more Priority Customer order flow in these symbols to the Exchange. As discussed above, the proposal provides the reduced Taker Fee benefit to the Priority Customer. To the extent the proposal attracts more Priority Customer order flow in SPY, QQQ, and IWM to the Exchange, the Exchange believes that this will benefit all market participants through increased trading opportunities. The Exchange also represents that for orders directed to Preferred Market Makers, Preferred Market Makers are unaware of the identity of the counterparty prior to and at the time of the trade. Furthermore, Options 9, Section 1 (Just and Equitable Principles of Trade) and Options 9, Section 9 (Prevention of the Misuse of Material Nonpublic

Information)¹⁴ are intended to prohibit coordinated actions between Preferred Market Makers and Order Flow Providers,¹⁵ and the Exchange proactively conducts surveillance for, and enforces against, such violations. Finally, of note, a Market Maker must be quoting at the better of the internal BBO or the NBBO at the time the Preferred Order is received to be allocated, as required by Options 2, Section 10.

The Exchange also believes that assessing different pricing for SPY, QQQ and IWM, as compared to other symbols, is reasonable because trading in SPY, QQQ and IWM is different from trading in other symbols in that they are more liquid, have higher volume and competition for executions is more intense.

The Exchange believes that it is equitable and not unfairly discriminatory to provide the proposed Maker Rebate Tiers 1–5 for SPY, QQQ, and IWM to Market Makers because they have different requirements and additional obligations that other market participants do not (such as quoting requirements).¹⁶ As discussed above, the proposed Maker Rebates of \$0.41 per contract are designed to continue to incentivize Market Maker add liquidity activity in SPY, QQQ, and IWM, thereby facilitating tighter spreads and contributing towards a robust, well-balanced market ecosystem, to the benefit of all market participants.

The Exchange further believes that it is equitable and not unfairly discriminatory to assess Priority Customers a \$0.45 per contract Taker Fee in Tiers 1–5 for SPY, QQQ, and IWM because Priority Customers will continue to be assessed lower Taker Fees in Penny Symbols compared to all other market participants today. As such, the Exchange believes that the proposed taker pricing will continue to incentivize Priority Customer order flow in SPY, QQQ, and IWM to the Exchange. An increase in Priority Customer order flow benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants, in turn, facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants, to the benefit of all market participants.

The Exchange further believes it is equitable and not unfairly

discriminatory to reduce the Priority Customer Taker Fee in Tiers 1–5 for SPY, QQQ, and IWM set forth in proposed note 15 by \$0.02 per contract when the Preferred Market Maker transacts against a Priority Customer Order directed to that Preferred Market Maker for execution. Any Member can be an Order Flow Provider (as defined in Options 2, Section 10) and may direct a Priority Customer order to any Market Maker on the Exchange.¹⁷ Furthermore, the proposal seeks to encourage more Priority Customer order flow in SPY, QQQ, and IWM to the Exchange by providing a reduced Taker Fee to Priority Customers in the manner discussed above. An increase in Priority Customer order flow benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants, in turn, facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants, to the benefit of all market participants.

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.

In terms of intra-market competition, the Exchange does not believe that its proposal will place any category of market participants at a competitive disadvantage. The Exchange believes that all of the changes proposed above will incentivize market participants to direct more order flow to the Exchange, to the benefit of all market participants who may interact with this order flow. While some aspects of the proposal apply directly to Market Makers (through the Market Maker Tier 1 through Tier 5 Maker Rebates for SPY, QQQ, and IWM) or Priority Customers (through the Priority Customer Tier 1 through Tier 5 Taker Fees for SPY, QQQ, and IWM; and the reduced Priority Customer Tier 1 through 5 Taker Fees for SPY, QQQ, and IWM when the Preferred Market Maker transacts against a Priority Customer Order directed to that Preferred Market Maker for execution), the Exchange believes that the proposed changes taken together will fortify and encourage activity, especially Market Maker and Priority Customer activity, on the Exchange. As discussed above, all

¹³ Specifically, Market Makers and Non-Nasdaq GEMX Market Makers are currently assessed Taker Fees in Penny Symbols ranging from \$0.48 to \$0.50 per contract. In addition, Firm Proprietary/Broker-Dealers and Professional Customers are currently assessed Taker Fees ranging from \$0.49 to \$0.50 per contract. See Options 7, Section 3.

¹⁴ GEMX Options 9, Sections 1 and 9 incorporates ISE Options 9, Sections 1 and 9 by reference.

¹⁵ An Order Flow Provider means any Member that submits, as agent, orders to the Exchange. See *supra* note 7.

¹⁶ See Options 2, Section 5.

¹⁷ An Order Flow Provider, by definition, means any Member that submits, as agent, orders to the Exchange. See *supra* note 7.

market participants will benefit from any increase in market activity that the proposal effectuates. As it relates to the reduced Taker Fee in SPY, QQQ, and IWM for Priority Customers, any Member can be an Order Flow Provider, and may direct a Priority Customer Order to any Market Maker at any time on an order by order basis.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other options exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁸ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

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-GEMX-2024-27 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-GEMX-2024-27. 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-GEMX-2024-27 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-18476 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100720; File No. SR-NYSE-2024-23]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Section 703.12(II) of the NYSE Listed Company Manual To Expand the Circumstances Under Which Rights May Be Listed on the NYSE

August 13, 2024.

I. Introduction

On April 29, 2024, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Section 703.12(II) of the NYSE Listed Company Manual ("Manual") to expand the circumstances under which rights may be listed on the NYSE by allowing issuers to (i) issue rights to more than existing shareholders for a class of securities that is listed or to be listed on the Exchange, and (ii) list and trade rights on the Exchange prior to listing the security into which such rights will be exercisable. The proposed rule change was published for comment in the **Federal Register** on May 15, 2024.³ On June 26, 2024, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ The Commission has

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 100102 (May 10, 2024), 89 FR 42543 (Notice of Filing of Proposed Rule Change to Amend Section 703.12(II) of the NYSE Listed Company Manual To Expand the Circumstances Under Which Rights May Be Listed on the NYSE) ("Notice").

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 100437, 89 FR 54894 (July 2, 2024). The Commission designated August 13, 2024, as the

received no comment letters on the proposed rule change. The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Section 703.12(II) of the Manual to expand the circumstances under which rights may be listed on the NYSE. First, the Exchange proposes allowing issuers to issue rights to more than existing shareholders for a class of securities that is listed or to be listed on the Exchange. Currently, under Section 703.12(II) of the Manual, the term “rights” refers to the privilege offered to holders of record of issued equity securities to subscribe for additional securities of the same class. Consistent with the current rights listing requirements, the Exchange states that rights traded on the Exchange have been limited to granting existing shareholders the right to subscribe for additional shares of a listed class of equity securities that such shareholders already hold.⁷ The Exchange proposes to amend Section 703.12(II) to provide that the term “rights” will refer to the privilege offered recipients of such rights to subscribe for shares of a class of securities (whether or not equity securities) of such issuer that is listed or to be listed on the Exchange, regardless of whether the recipients of the rights are existing shareholders of record of such issuer.

Second, the Exchange proposes allowing issuers to list and trade rights on the Exchange prior to listing the security into which such rights will be exercisable. Currently, under Section 703.12(II) of the Manual, in order to be listed on the Exchange rights must be issued to purchase or receive a security that is already listed on the Exchange or that will be listed on the Exchange concurrent with the rights. The Exchange proposes to expand the circumstances in which a right may be listed to permit the listing of a right where the security into which such right is exercisable will be listed on the Exchange⁸ upon exercise of the rights and such exercise is pursuant to a registration statement filed under the

Securities Act of 1933 (a “Securities Act Registration Statement”) that has been declared effective by the Commission prior to or simultaneous with the listing of such rights (“Prospective Listing Rights”). Prospective Listing Rights would only be eligible for listing if, at the time of initial listing, there are (i) at least 1,000,000 Prospective Listing Rights issued, and (ii) at least 400 public holders of round lots.⁹

The Exchange will promptly initiate suspension and delisting procedures with respect to such Prospective Listing Rights if it is determined that (i) the security for which the Prospective Listing Rights are exercisable will not be listed on the Exchange; (ii) the market value of publicly-held shares of a series of Prospective Listing Rights at any time is less than \$4,000,000; or (iii) if the Prospective Listing Rights remain outstanding at the time of the initial listing on the Exchange of the securities into which such Prospective Listing Rights are exercisable, the Prospective Listing Rights fail to meet all of the initial listing requirements applicable to the listing of rights other than Prospective Listing Rights. If the Exchange commences delisting procedures with respect to Prospective Listing Rights, the issuer of the Prospective Listing Rights will not be eligible to avail itself of the provisions of Sections 802.02 and 802.03 of the Manual and any such Prospective Listing Rights will be subject to delisting procedures as set forth in Section 804.00 of the Manual.¹⁰

III. Proceedings To Determine Whether To Approve or Disapprove SR-NYSE-2024-23 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act¹¹ to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to

provide additional comment on the proposed rule change to inform the Commission’s analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,¹² the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change’s consistency with the Act and, in particular, with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.¹³

The Commission has consistently recognized the importance of national securities exchange listing standards. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets.¹⁴

¹² *Id.*

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ The Commission has stated in approving national securities exchange listing requirements that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to the financial markets and the investing public. In addition, once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange’s standards for market depth and liquidity so that fair and orderly markets can be maintained. *See, e.g.*, Securities Exchange Act Release Nos. 91947 (May 19, 2021), 86 FR 28169, 28172 n.47 (May 25, 2021) (SR-NASDAQ-2020-057) (“Nasdaq 2021 Order”); 90768 (December 22, 2020), 85 FR 85807, 85811 n.55 (December 29, 2020) (SR-NYSE-2019-67) (“NYSE 2020 Order”); 82627 (February 2, 2018), 83 FR 5650, 5653 n.53 (February 8, 2018) (SR-NYSE-2017-30) (“NYSE 2018 Order”); 81856 (October 11, 2017), 82 FR 48296, 48298 (October 17, 2017) (SR-NYSE-2017-31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR-NYSE-2017-11). The Commission has stated that adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and

date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ *See* Notice, *supra* note 3, at 42544.

⁸ The security underlying a Prospective Listing Right must satisfy the applicable initial listing standards set forth in Section 102.00 or Section 103.00 of the Manual. *See id.*

⁹ For purposes of Section 703.12(II), “Public holders” excludes holders that are directors, officers, or their immediate families and holders of other concentrated holdings of 10 percent or more of the total outstanding shares.

¹⁰ Section 804.00 of the Manual provides procedures for a listed company to appeal an Exchange staff determination to delist a security.

¹¹ 15 U.S.C. 78s(b)(2)(B).

As described above, the Exchange proposes to substantially expand the types of rights that may be listed on the Exchange to include Prospective Listing Rights, which provide the right to subscribe for any class of securities that is intended to be listed on the Exchange in the future, and can be offered to anyone. Today, the Exchange's listing rules limit the rights that may be listed on the Exchange to those that provide the right to subscribe for a class of equity securities that is already listed on the Exchange, or will be listed concurrently with the rights, and are offered only to holders of record of the same class of equity securities. The Commission has concerns about whether the proposal is sufficiently designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest, as required by Section 6(b)(5) of the Exchange Act.

The Exchange justifies its proposal by stating that the proposed rule change would provide issuers "greater flexibility in structuring a rights offering as a capital raising tool."¹⁵ The Exchange also believes that the requirement that there be an effective Securities Act Registration Statement in relation to the exercise of the Prospective Listing Rights prior to or simultaneous with their listing would provide significant investor protections, by ensuring that investors trading or exercising the Prospective Listing Rights have access to the appropriate level of disclosure to enable them to make informed investment decisions.¹⁶ The Exchange also points out that it will

practices, promote just and equitable principles of trade, and protect investors and the public interest. *See, e.g.,* Nasdaq 2021 Order, 86 FR at 28172 n.47; NYSE 2020 Order, 85 FR at 85811 n.55; NYSE 2018 Order, 83 FR at 5653 n.53; Securities Exchange Act Release Nos. 87648 (December 3, 2019), 84 FR 67308, 67314 n.42 (December 9, 2019) (SR-NASDAQ-2019-059); 88716 (April 21, 2020), 85 FR 23393, 23395 n.22 (April 27, 2020) (SR-NASDAQ-2020-001).

¹⁵ *See* Notice, *supra* note 3, at 42544.

¹⁶ *See id.* Prospective Listing Rights would also be subject to Section 202.05 and 202.06 of the Manual, which would require immediate disclosure of all material news. The Exchange believes that the disclosure requirements would act as a significant safeguard against illegal manipulation. *See id.* at 42545. In addition, the Exchange believes that such Securities Act Registration Statements, including disclosure about the anticipated business and financial position of the issuer as it will exist upon exercise of the Prospective Listing Rights, would provide investors in the Prospective Listing Rights with the ability to make judgments about the anticipated value of the underlying securities by making comparisons to the market values of comparable listed companies. *See id.* The Exchange further believes that its proposed initial and continued listing standards would ensure trading liquidity. *See id.*

promptly initiate suspension and delisting procedures with respect to the Prospective Listing Rights if it is determined that the underlying securities will not be listed on the Exchange (e.g., because the issuer has determined to terminate the Prospective Listing Rights because the transaction they were intended to fund has been terminated, or the underlying securities are no longer eligible for listing), or if they fail to meet its quantitative continued listing standards, such as the requirement that the market value of publicly-held shares of a series of Prospective Listing Rights be at least \$4,000,000.¹⁷

The Exchange's proposal would appear to permit the listing of Prospective Listing Rights that are issued both for value and without consideration. The proposal also provides no time limit on how long Prospective Listing Rights may trade on the Exchange before the underlying security is listed.

The Exchange does not clearly explain how market participants would effectively value Prospective Listing Rights, particularly those that are issued without consideration, given that the underlying securities will not be publicly traded, and the uncertain relationship between the exercise price and the value of the underlying securities. The Exchange does not address, among other things, the types of market information that could create a positive value for the Prospective Listing Rights, the reliability and availability of such information, or whether such information could support fair and efficient trading of an Exchange-listed security for an indefinite period of time.

The Exchange also does not explain how it would effectively address the risk the price of Prospective Listing Rights could be manipulated, or how its proposal otherwise would be designed to prevent fraudulent or manipulative acts or practices. For example, the price of Prospective Listing Rights would appear to be particularly susceptible to rumors about the target company, or the likelihood the transaction the Prospective Listing Rights is intended to fund will be consummated. The Exchange makes the general statement that it believes its existing surveillance procedures, including those relating to Special Purpose Acquisition Companies ("SPACs"), are adequate to detect manipulative trading practices with respect to Prospective Listing Rights. Because Prospective Listing Rights may trade at a very low price, however, they

¹⁷ *See id.* at 42544.

may permit a bad actor to efficiently manipulate those securities with little upfront cost. The Exchange does not clearly address how its proposal is designed to prevent the risk that Prospective Listing Rights may be particularly susceptible to manipulation.

Further, the Exchange does not clearly explain the rationale for the various numerical standards and criteria set forth in its proposal, or how they together are designed to be consistent with the Exchange Act and the rules and regulations thereunder. For example, the Exchange proposes that an issuer's Prospective Listing Rights may initially be listed on the Exchange if there are at least 1,000,000 issued, but also proposes a continued listing standard that requires prompt initiation of suspension and delisting procedures if the market value of publicly-held shares of a series of Prospective Listing Rights at any time is less than \$4,000,000. This would imply a minimum price in these circumstances of more than \$4 per Prospective Listing Right. The Exchange acknowledges that it is not proposing any initial market value or security price requirements for the Prospective Listing Rights, but believes that the \$4,000,000 market value continued listing standard will ensure that Prospective Listing Rights will not commence trading on the Exchange unless the market believes they have more than nominal trading value. Because Prospective Listing Rights may decline in price after listing, however, they may soon become subject to delisting. The Exchange has not clearly addressed how such a scenario would be consistent with the protection of investors and the public interest and other relevant provisions of the Exchange Act, or how the other numerical standards and criteria in its proposal have been designed to work together to avoid similar outcomes.

In addition, to the extent Prospective Listing Rights are issued in exchange for consideration, the Exchange has not explained how the offering proceeds will be protected pending consummation of the underlying transaction and exercise. Similarly, the proposal does not address how the proceeds received by the issuer upon exercise will be protected pending the consummation of the underlying transaction. Nor has the Exchange explained what will happen to such proceeds in the event the underlying transaction is not consummated or it is determined that the underlying security otherwise will not be listed on the Exchange. The Exchange's rules relating to the listing of SPACs, for example,

contain many detailed investor protections relating to how and where such funds will be held, and the circumstances under which they will be used to fund the business combination or returned to shareholders.¹⁸ The Exchange has not proposed that any of these important investor protections apply to Prospective Listing Rights, or explained how their absence is consistent with the protection of investors or the public interest.

With respect to the Exchange's proposed change to allow issuers to issue rights to more than existing shareholders for a class of securities that is listed or to be listed on the Exchange, the Exchange justifies its proposal by stating that it does not believe that there is an investor protection concern that justifies limiting rights to existing shareholders.¹⁹ Further, the Exchange states that Section 312.03(c) of the Manual generally provides existing shareholders of listed common stock the ability to block any rights offering that was materially dilutive of their economic or voting interest.²⁰ However, that rule only covers issuances of common stock or securities convertible into common stock, and would not appear to address other types of securities that may underlie Prospective Listing Rights. The Exchange has not addressed these and related potential investor protection concerns.

In addition, the Exchange states that the exercise of the rights would be "pursuant to a registration statement filed under the Securities Act of 1933 (a 'Securities Act Registration Statement') that has been declared effective . . . prior to or simultaneous with the listing of such rights" and that such registration statement would be updated "to reflect any material changes in the information required to be included therein that arise between the time of effectiveness of the Securities Act Registration Statement and the exercise of the Prospective Listing Rights, thereby ensuring that investors trading the Prospective Listing Rights on the Exchange will have access to current information about the issuer on a continuous basis."²¹ However, it does not appear that the proposal contains a requirement that an issuer file a new registration statement or a post-effective amendment, either of which must include full disclosure regarding the target's business, as well as any required target financial statements, at the critical time when a target has been identified

and rights holders begin making decisions on exercising their Prospective Listing Rights for the underlying securities, thereby raising investor protection concerns.²² The mere updating of a registration statement that registered the initial issuance of the Prospective Listing Rights (the "Initial Registration Statement") via prospectus supplement or incorporation by reference would also raise investor protection concerns. Importantly, without a new registration statement or a post-effective amendment to the Initial Registration Statement, investors will not necessarily have the protections of the private liability provisions of the Securities Act of 1933 ("Securities Act") when exercising their rights for the underlying securities. A new registration statement or post-effective amendment containing all of the required information about the target would provide investors with the full liability protections of the Securities Act. For example, the filing of a new registration statement or post-effective amendment would provide a new effective date covering all of the disclosures relating to the target included therein. It would also permit staff review of the new registration statement or post-effective amendment and would effectively restart the statute of limitations under Section 11 of the Securities Act, giving investors the full advantage of the statutory window in which to, if necessary, bring suit. Without an explicit requirement to file a new registration statement or post-effective amendment containing full disclosure regarding the target's business, as well as any required target financial statements, investors would not necessarily have the disclosure required to make an informed investment decision or the full panoply of remedies available under the Securities Act for material misstatements and omissions. Given these important investor protection issues, there are questions raised about the proposal's consistency with the investor protection and public interest requirements under Section 6(b)(5) of the Exchange Act.

Accordingly, the Commission believes there are questions as to whether the proposal is consistent with Section 6(b)(5) of the Act and its requirements,

among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, and not be designed to permit unfair discrimination.

Under the Commission's Rules of Practice, the "burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change."²³ The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,²⁴ and any failure of a self-regulatory organization to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.²⁵

For these reasons, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Act²⁶ to determine whether the proposal should be approved or disapproved.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) of the Act²⁷ or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,²⁸ any request for an opportunity to make an oral presentation.²⁹

²³ 17 CFR 201.700(b)(3).

²⁴ *Id.*

²⁵ *Id.*

²⁶ 15 U.S.C. 78s(b)(2)(B).

²⁷ 15 U.S.C. 78f(b)(5).

²⁸ 17 CFR 240.19b-4.

²⁹ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29 (June 4, 1975), grants to the Commission

¹⁸ See Section 102.06 of the Manual.

¹⁹ See Notice, *supra* note 3, at 42544.

²⁰ See *id.* at 42545.

²¹ See *id.* at 42544.

²² For example, a Securities Act Registration Statement may have been declared effective before any information on the underlying security is available, and it does not appear that the Exchange proposal would require such Securities Act Registration Statement to be amended once such information becomes available or, alternatively, a new Securities Act Registration Statement to be filed.

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by September 9, 2024. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by September 23, 2024. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2024-23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-NYSE-2024-23. 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;

flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSE-2024-23 and should be submitted on or before September 9, 2024. Rebuttal comments should be submitted by September 23, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18474 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100719; File No. SR-MEMX-2024-30]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule Concerning Transaction Pricing

August 13, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on July 31, 2024, MEMX LLC ("MEMX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members³ (the "Fee Schedule") pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on August 1, 2024. The text of the proposed rule change is provided in Exhibit 5.

³⁰ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Rule 1.5(p).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule to modify the Non-Display Add Tiers by: (1) decreasing the rebate and modifying the required criteria under Non-Display Add Tier 2; and (2) eliminating Non-Display Add Tiers 3 and 4, as further described below.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 15.5% of the total market share of executed volume of equities trading.⁴ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 2.3% of the overall market share.⁵ The Exchange in particular operates a "Maker-Taker" model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove

⁴ Market share percentage calculated as of July 25, 2024. The Exchange receives and processes data made available through consolidated data feeds (*i.e.*, CTS and UTDF).

⁵ *Id.*

liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Non-Display Add Tiers

The Exchange currently provides a standard rebate \$0.0008 per share for executions of orders in securities priced at or above \$1.00 per share that add non-displayed liquidity to the Exchange (such orders, “Added Non-Displayed Volume”). The Exchange also currently offers Non-Display Add Tiers 1–4 under which a Member may receive an enhanced rebate for executions of Added Non-Displayed Volume by achieving the corresponding required volume criteria for each such tier. The Exchange now proposes to modify the Non-Display Add Tiers by decreasing the rebate and changing the required criteria under Non-Display Add Tier 2, and eliminating Non-Display Add Tiers 3 and 4.

First, with respect to Non-Display Add Tier 2, the Exchange currently provides an enhanced rebate of \$0.0027 per share for executions of Added Non-Displayed Volume for Members that qualify for such tier by achieving a Non-Displayed ADAV⁶ that is equal to or greater than 5,000,000 shares.⁷ Now, the Exchange proposes to modify Non-Display Add Tier 2 such that the Exchange would provide an enhanced rebate of \$0.0025 per share for executions of Added Non-Displayed Volume for Members that qualify for such tier by achieving a Non-Displayed ADAV that is equal to or greater than 1,000,000 shares. Thus, such proposed changes would decrease the rebate for executions of Added Non-Displayed Volume by \$0.0002 per share and decrease the Non-Displayed ADAV requirement from 5,000,000 to 1,000,000 shares. The Exchange also proposes to

specify in a note under the Non-Display Add Tiers table on the Fee Schedule that Members that qualify for Non-Display Add Tier 2 based on activity in a given month will also receive that associated Non-Display Add Tier 2 rebate during the following month.⁸

With respect to Non-Display Add Tiers 3 and 4, under Non-Display Add Tier 3, the Exchange currently provides an enhanced rebate of \$0.0024 per share for executions of Added Non-Displayed Volume for Members that qualify for such tier by achieving a Non-Displayed ADAV that is equal or greater than 2,000,000 shares, and under Non-Display Add Tier 4, the Exchange currently provides an enhanced rebate of \$0.0018 per share for executions of Added Non-Displayed Volume for Members that qualify for such tier by achieving a Non-Displayed ADAV that is equal to or greater than 1,000,000 shares. The Exchange now proposes to eliminate Non-Display Add Tiers 3 and 4, as the Exchange no longer wishes to, nor is it required to, maintain such tiers.

The purpose of decreasing the Non-Displayed ADAV requirement to achieve Non-Display Add Tier 2 is to facilitate Members’ ability to qualify for the rebate for executions of Added Non-Displayed Volume. The Exchange believes that more Members will be able to qualify for the rebate at the lower Non-Displayed ADAV share requirement, which the Exchange believes may encourage Members to maintain or increase their order flow. The purpose of reducing the rebate for executions of Added Non-Displayed Volume under Non-Display Add Tier 2 as proposed is for business and competitive reasons, as the Exchange believes that such rebate reduction would decrease the Exchange’s expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange’s overall philosophy of encouraging an overall increase in liquidity on the Exchange. Additionally, the proposed process by which the enhanced rebate will be paid under Non-Display Add Tier 2 allows Members to anticipate whether such rebate will apply at the time of execution based on whether the criteria was achieved in the prior month.

The tiered pricing structure for executions of Added Non-Displayed Volume under the Non-Display Add Tiers provides an incremental incentive for Members to strive for higher volume

thresholds to receive higher enhanced rebates for such executions and, as such, is intended to encourage Members to maintain or increase their order flow, particularly in the form of liquidity-adding non-displayed volume, to the Exchange, thereby contributing to a deeper and more robust and well-balanced market ecosystem to the benefit of all Members and market participants. The Exchange believes that the Non-Display Add Tiers, as modified by the proposed changes described above, reflect a reasonable and competitive pricing structure that is right-sized and consistent with the Exchange’s overall pricing philosophy of encouraging added liquidity. Specifically, the Exchange believes that, after giving effect to the proposed changes described above, the rebate for executions of Added Non-Displayed Volume provided under each of the Non-Display Add Tiers is commensurate with the corresponding required criteria under each such tier and is reasonably related to the market quality benefits that each such tier is designed to achieve.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁹ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,¹⁰ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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

⁶ As set forth on the Fee Schedule, “Non-Displayed ADAV” means ADAV with respect to non-displayed orders (including orders subject to Display-Price Sliding that receive price improvement when executed and Midpoint Peg orders).

⁷ The pricing for Non-Display Add Tier 2 is referred to by the Exchange on the Fee Schedule under the existing description “Added non-displayed volume, Non-Display Add Tier 2” with a Fee Code of “H2”, “M2” or “P2”, as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

⁸ The Exchange notes that this methodology of awarding a rebate under the Exchange’s tiered pricing structure is currently in place with respect to Cross Asset Tier 3.

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

broader forms that are most important to investors and listed companies.”¹¹

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange’s transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional order flow to the Exchange, which the Exchange believes would promote price discovery and enhance liquidity and market quality on the Exchange to the benefit of all Members and market participants.

The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange’s market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the proposed changes to the rebate and criteria under Non-Display Add Tier 2 are reasonable, equitable and not unfairly discriminatory, because, as described above, such changes are available to all Members on an equal basis, and, are designed to encourage Members to maintain or increase their order flow, including in the form of non-displayed, liquidity-adding, orders to the Exchange in order to qualify for an enhanced rebate, as applicable, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

As it relates to the method by which the Exchange proposes to award the rebate under Non-Display Add Tier 2, as modified herein, the Exchange believes it is reasonable, equitable and not unfairly discriminatory, as the tier is

available to all Members on an equal basis, and, as described above, is reasonably designed to encourage Members to maintain or increase their order flow to the Exchange with an added layer of certainty in the rebate they will receive in the upcoming month, if applicable.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act¹² in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange’s statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to incentivize market participants to direct additional order flow to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members and market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission’s goal in adopting Regulation NMS of fostering competition among orders, which promotes “more efficient pricing of individual stocks for all types of orders, large and small.”¹³

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow in the form of liquidity adding, non-displayed orders to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members, as well as enhancing the attractiveness of the Exchange as a trading venue,

which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The opportunity to qualify for the proposed modified Non-Display Add Tier 2 would be available to all Members that meet the associated volume requirements in any month. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 15 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 15.5% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange’s transaction fees and rebates and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed changes represent a competitive proposal through which the Exchange is seeking to generate additional revenue with respect to its transaction pricing and to encourage the submission of additional order flow to the Exchange through volume-based tiers, which have been widely adopted by exchanges, including the Exchange. Accordingly, the

¹¹ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

¹² 15 U.S.C. 78f(b)(4) and (5).

¹³ See *supra* note 11.

Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants.

Additionally, 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.”¹⁴ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. SEC*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”¹⁵ Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁶ and Rule 19b-4(f)(2)¹⁷ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2024-30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-MEMX-2024-30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication

submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MEMX-2024-30 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-18473 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100716; File No. SR-CboeBZX-2024-072]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Replace the Regulatory Transaction Fee With a Sales Value Fee

August 13, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 30, 2024, Cboe BZX Exchange, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/BZX/), at the Exchange’s Office of the Secretary, 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

¹⁴ *Id.*

¹⁵ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 240.19b-4(f)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to add language concerning the application and collection of the Sales Value Fee, as described below.

By way of background, Section 31 of the Securities Exchange Act of 1934 (the "Act")³ requires each self-regulatory organization ("SRO") to pay the Securities and Exchange Commission ("SEC" or "Commission") twice annually a fee based on the aggregate dollar amount of certain sales of securities (*i.e.*, "covered sales"). A covered sale is a "sale of a security, other than an exempt sale or a sale of a security future, occurring on a national securities exchange or by or through any member of a national securities association otherwise than on a national securities exchange."⁴ Assessing a sales fee to defray the cost of these fees is common practice among the national securities exchanges and associations, including the Exchange's affiliate options exchanges.⁵ In fact, the Exchange currently assesses a fee on its Members⁶ for covered sales on the Exchange to recoup these amounts, which is described in Exchange Rule 15.1(b) (Regulatory Transaction Fee) but is not currently described on the Exchange's Fee Schedule. The Exchange now proposes to amend its Fee Schedule to include information regarding this fee, including an explanation and description of the fee

and how it is collected. In conjunction with the proposed addition to the Fee Schedule, the exchange also proposes to delete the applicable rule text found in Exchange Rule 15.1(b) and proposes to rename Rule 15.1(b) as "Reserved."

Specifically, the Exchange proposes to add a section to the Fee Schedule labeled "Sales Value Fee". The proposed new section defines the Sales Value Fee ("Fee") as the fee assessed by the Exchange to each Member for sales in securities when a sale in an equity security occurs with respect to which the Exchange is obligated to pay a fee to the SEC under Section 31 of the Exchange Act or when a sell order in an equity security is routed for execution at a market other than the Exchange, resulting in a covered sale on that market and an obligation of the routing broker providing routing services for the Exchange, as described in Exchange Rules 2.11 and 2.12, to pay the related sales fee of that market. The proposed section provides that to the extent the Exchange may collect more from Members under the section than is due from the Exchange to the Commission under Section 31 of the Act, for example due to rounding differences, the excess monies collected may be used by the Exchange to fund its general operating expenses. The Exchange may reimburse its routing broker for all Section 31-related fees incurred by the routing broker in connection with the routing services it provides.

The proposed section explains that the transactions to which the Fee applies are sales of equities. The Fee is collected indirectly from Members through their clearing firms by the Depository Trust & Clearing Corporation ("DTCC") on behalf of the Exchange with respect to sales in equity securities.⁷ For Members who do not have a DTCC account, the Exchange invoices these Members directly.

The proposed section also sets forth the formula for calculating the Fee. Specifically, the Fee with respect to sales in equity securities is equal to (i) the Section 31 fee rate⁸ multiplied by (ii) the Member's aggregate dollar amount of covered sales resulting from equities transactions that have a charge date in that month.⁹ The Fee is calculated and invoiced by the

Exchange on a monthly basis, but is not paid to the Commission until the end of the applicable billing period.¹⁰ The billing period for Section 31-related fees is separated into two periods: (i) January 1 through August 31; and (ii) September 1 through December 31.¹¹ The Exchange notes that if the SEC's Section 31 fee rate changes in the middle of a month, the Exchange will perform a separate calculation with respect to covered sales under the new fee rate for the remaining portion of the month.

In addition to the Exchange's proposal to add the Fee to its Fee Schedule, the Exchange simultaneously proposes to delete the rule text found in Exchange Rule 15.1(b). Exchange Rule 15.1(b) currently provides a description of the Fee within the Exchange rulebook, which would be duplicative as the Fee will be set forth and more fully described in the Fee Schedule. The Exchange notes that the Fee, as described in Exchange Rule 15.1(b), is described only at a high-level and does not contain specific details about how the Exchange currently calculates and collects the Fee. Specifically, Exchange Rule 15.1(b) merely states that the Exchange assesses a Regulatory Transaction Fee to its Members in order to help fund the Exchange's obligations to the Commission under Section 31. While Exchange Rule 15.1(b) does state how the Fee is calculated (which is identical to the proposed calculation described on the Fee Schedule), there is no description of the types of transactions that trigger the Fee or how the fee is collected by the Exchange. The Exchange proposes to more fully describe its current practice of calculating and collecting the Fee by providing additional details on the Fee Schedule. In conjunction with removing the rule text in Exchange Rule 15.1(b), the Exchange proposes to rename Exchange Rule 15.1(b) as "Reserved."

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

³ 17 CFR 240.31.

⁴ 17 CFR 240.31(a)(6).

⁵ See, e.g. Cboe C2 Options Fee Schedule, Sales Value Fee; NASDAQ Equities Price List, Sales Fees to Fund Section 31 Obligations; and NYSE Arca Rule 2.18 (Activity Assessment Fees).

⁶ See Rule 1.5(n). The term "Member" shall mean any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a "member" of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange.

⁷ See https://cdn.cboe.com/resources/membership/Direct_Debit_Opt-In_Form.pdf.

⁸ The Section 31 fee rate is the fee rate applicable to covered sales under section 31(b) of the Act. See 15 U.S.C. 78ee(b). The current rate applicable to equities securities transactions is \$27.80 per million dollars. See also https://cdn.cboe.com/resources/fee_schedule/2024/Regulatory-Transaction-Fee-Adjustment-per-SEC-Section-31-Rate-Change-Effective-May-22-2024.pdf.

⁹ 17 CFR 240.31(c).

¹⁰ 17 CFR 240.31(c)(1).

¹¹ 17 CFR 240.31(a)(2).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁵ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes that the proposed rule change is consistent with these requirements because the proposed amended Fee Schedule text provides Members with detail regarding the circumstances under which the Exchange assesses a Sales Value Fee, and the current process by which the Fee is collected. The Exchange's current codification of the Fee in Exchange Rule 15.1(b) does not accurately depict the Exchange's current practice of calculating and collecting the Fee. The Exchange believes that amending the description of the Fee and placing this description on its Fee Schedule rather than in the Exchange rulebook will provide additional guidance to its Members about which transactions are subject to the Fee, how the Fee is calculated, and how the Fee is collected. As such, the proposed changes will increase transparency, help avoid Member confusion and foster better understanding of the application of the Fee, which the Exchange believes promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest. Further, the Exchange believes the proposed change is reasonable as the Exchange is proposing to assess the same Fee to its Members that the Exchange must pay to the Commission twice annually.^[sic]

The Exchange believes the proposed change represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to all Members in that all

Members submitting covered orders to the Exchange are assessed the Fee, which is equal to the fee that the Exchange is required to pay to the Commission. Furthermore, by moving the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule, all Members will have additional information about the types of orders subject to the Fee and how the Exchange collects the Fee from its Members, which do not currently appear in Exchange Rule 15.1(b). While Exchange Rule 15.1(b) describes at a high-level the Exchange's ability to assess a fee in order to help fund the Exchange's obligations under Section 31, it does not accurately depict the Exchange's current practice in regard to calculating and collecting the Fee from its Members. The proposed movement of the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule will not change how the Exchange calculates or collects the Fee from its Members, but rather will provide a more complete and accurate description of the Fee to all Members. All Members will be able to access a detailed description of the Fee on the Fee Schedule and as such, the description of the Fee found in Exchange Rule 15.1(b) that does not accurately describe the Exchange's current practice in calculating or collecting the Fee is no longer necessary.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes will impose any burden on intramarket competition. Particularly, the proposed change applies uniformly to all Members, in that the Sales Value Fee is applied uniformly to all Members' applicable covered orders. Similarly, the proposal to delete Rule 15.1(b) from the Exchange rulebook will not impose any burden on competition because the change applies to all Members uniformly, in that all Members will instead be able to access the description of the Sales Value Fee and how the Fee is calculated on the Fee Schedule.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, assessing a sales fee to defray the cost of fees assessed under Section 31 of the Act is common

practice among the national securities exchanges and associations.¹⁶

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2024-072 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-CboeBZX-2024-072. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78f(b)(4).

¹⁶ *Supra* note 5.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

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–CboeBZX–2024–072 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,
Assistant Secretary.
[FR Doc. 2024–18470 Filed 8–16–24; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION
[Release No. 34–100721; File No. SR–MRX–2024–30]
Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange’s Pricing Schedule at Options 7, Section 3

August 13, 2024.
Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 31, 2024, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange’s Pricing Schedule at Options 7, Section 3. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on August 1, 2024.
The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/>

rulebook/mrx/rules, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose
The purpose of the proposed rule change is to amend the Exchange’s Pricing Schedule at Options 7, Section 3.
Maker/Taker Pricing
Today, as set forth in Table 1 of Options 7, Section 3, the Exchange assesses Market Makers³ and Priority Customers⁴ the below tiered maker/taker fees and rebates in Penny and Non-Penny Symbols that are based on increasing volume requirements set forth in Table 3 of Options 7, Section 3.⁵

Market participant	Maker fee Tier 1	Maker fee Tier 2	Maker fee Tier 3	Maker fee Tier 4	Taker fee/rebate Tier 1	Taker fee/rebate Tier 2	Taker fee/rebate Tier 3	Taker fee/rebate Tier 4
Penny Symbols:								
Market Maker	\$0.50	\$0.50	\$0.50	\$0.50	\$0.35	\$0.35	\$0.35	\$0.35
Priority Customer	0.00	0.00	0.00	0.00	(0.31)	(0.36)	(0.41)	(0.44)
Non-Penny Symbols:								
Market Maker	1.25	1.25	1.25	1.25	1.10	1.10	1.10	1.10
Priority Customer	0.00	0.00	0.00	0.00	(0.80)	(0.90)	(1.00)	(1.10)

Additionally, for SPY, QQQ, and IWM, the Exchange currently assesses \$0.00 per contract for Market Maker Tier 1 through Tier 4 Maker Fees and Priority Customer Tier 1 through Tier 4 Taker Fees/Rebates in Penny Symbols.⁶ In other words, Market Makers can provide liquidity in these symbols at no

cost (instead of paying the \$0.50 Tiers 1–4 Maker Fee in Penny Symbols), and Priority Customers can remove liquidity in these symbols at no cost (instead of receiving the Tiers 1–4 Taker Rebates in Penny Symbols ranging from \$0.31–\$0.44 per contract).

The Exchange now proposes to amend the pricing for SPY, QQQ, and IWM as described above to begin charging \$0.02 per contract for Market Maker Tier 1 through Tier 4 Maker Fees in these symbols. Further, the Exchange proposes to begin providing \$0.02 per contract for Priority Customer Tier 1

¹⁹ 17 CFR 200.30–3(a)(12).
¹ 15 U.S.C. 78s(b)(1).
² 17 CFR 240.19b–4.
³ A “Market Maker” is a market maker as defined in Nasdaq MRX Rule Options 1, Section 1(a)(21).
⁴ A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq MRX Options 1, Section 1(a)(36).
⁵ The tiered volume requirements are based on Total Customer ADV. Total Customer ADV is Priority Customer Total Consolidated Volume divided by Customer Total Consolidated Volume, including volume executed by Affiliated Members

or Affiliated Entities. Priority Customer Total Consolidated Volume is a Member’s total Priority Customer volume executed on MRX in that month, including volume executed by Affiliated Members or Affiliated Entities. All eligible volume from Affiliated Members or an Affiliated Entity will be aggregated in determining applicable tiers.
⁶ See note 6, Options 7, Section 3, Table 1.

through Tier 4 Taker Rebates in these symbols. As proposed, note 6 will provide: “Market Maker Tier 1 through Tier 4 Maker Fees in Penny Symbols will be \$0.02 per contract for the following option symbols: SPY, QQQ and IWM. Priority Customer Tier 1 through Tier 4 Taker Rebates in Penny Symbols will be (\$0.02) per contract for the following option symbols: SPY, QQQ and IWM.”

The Exchange also proposes to modify the Priority Customer Tiers 1–4 Taker Rebates in Penny and Non-Penny Symbols as described above. Specifically, the Exchange proposes in new note 7 of Options 7, Section 3, Table 1 that Priority Customer orders will not receive any Taker Rebates in Penny and Non-Penny Symbols for trades executed against another Priority Customer order. Instead, the Priority Customer order will be assessed \$0.00 per contract.

PIM Break-Up Rebates

Today, as set forth in Options 7, Section 3.A, the Exchange pays a PIM break-up rebate to an originating Priority Customer PIM order that executes with a response (order or quote), other than the PIM contra-side order, of \$0.25 per contract in Penny Symbols and \$0.60 per contract in Non-Penny Symbols.⁷ The Exchange also offers additional break-up rebates in note 3 of Options 7, Section 3.A for Members that meet certain volume requirements or alternatively, that enter into Affiliated Member⁸ or Affiliated Entity⁹ relationships. In particular, note 3 currently provides: “Break-up Rebates are provided for an originating Priority

Customer PIM Order that executes with any response (order or quote) other than the PIM contra-side order. Members that are not in an Affiliated Member or Affiliated Entity relationship and that execute 0.05% or greater of Customer Total Consolidated Volume¹⁰ which adds liquidity in non-PIM Priority Customer contracts within a month will receive an additional rebate of: (i) \$0.20 per contract in Penny Symbols for Complex PIM Orders only, (ii) \$0.15 per contract in Penny Symbols for Regular PIM Orders only, and (iii) \$0.45 per contract in Non-Penny Symbols for both Regular and Complex PIM Orders. Alternatively, Affiliated Members or Affiliated Entities will be eligible to receive the rebates in this note 3 without any additional volume requirements. The Exchange will provide the rebate to the OFP arm of an Affiliated Member relationship, or the Appointed OFP arm of an Affiliated Entity relationship.”

The Exchange now proposes to modify the note 3 rebate qualifications only for those Members that are not in Affiliated Member or Affiliated Entity relationships. Under this proposal, Affiliated Members or Affiliated Entities will continue to be eligible to receive the note 3 rebates without any additional volume requirements. Specifically, the Exchange proposes to require Members not in Affiliated Member or Affiliated Entity relationships to execute 0.04% or greater of Customer Total Consolidated Volume which adds liquidity in non-PIM Priority Customer contracts in regular orders within a month to receive the additional rebates in note 3.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹² in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange’s proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services

that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”¹³

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁴

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of seventeen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Maker/Taker Pricing

The Exchange believes that the proposed changes to the maker/taker pricing for Market Makers and Priority Customers in the manner described above are reasonable, equitable and not unfairly discriminatory for the reasons that follow.

⁷ Break-up rebates apply only to regular PIM orders of 500 or fewer contracts and to complex PIM orders where the largest leg is 500 or fewer contracts.

⁸ An “Affiliated Member” is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member’s Form BD, Schedule A.

⁹ An “Affiliated Entity” is a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. Market Makers and OFPs are required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Members may not qualify as a counterparty comprising an Affiliated Entity. Each Member may qualify for only one (1) Affiliated Entity relationship at any given time.

¹⁰ “Customer Total Consolidated Volume” means the total volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4) and (5).

¹³ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

¹⁴ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

SPY, QQQ, IWM Pricing

The Exchange believes that it is reasonable to begin charging \$0.02 per contract for Market Maker Tier 1 through Tier 4 Maker Fees in SPY, QQQ, and IWM, and to begin providing \$0.02 per contract for Priority Customer Tier 1 through Tier 4 Taker Rebates in these symbols. As it relates to Market Makers, the Exchange notes that it is only increasing the Tier 1 through Tier 4 Maker Fees by a small amount (*i.e.*, from \$0.00 to \$0.02). Further, Market Makers will continue to be charged significantly less for adding liquidity in SPY, QQQ, and IWM (\$0.02) than for adding liquidity in other Penny Symbols (\$0.50). As it relates to Priority Customers, the Exchange will begin providing Tier 1 through Tier 4 Taker Rebates of \$0.02 whereas today, Priority Customers do not receive any Taker Rebates for removing liquidity in SPY, QQQ, and IWM. The Exchange therefore believes that with the proposed changes, Market Makers and Priority Customers will continue to be incentivized to bring SPY, QQQ, and IWM order flow to MRX, which benefits all market participants by providing more trading opportunities. The Exchange also believes that assessing different pricing for SPY, QQQ, and IWM, as compared to other symbols, is reasonable because trading in SPY, QQQ, and IWM is different from trading in other symbols in that they are more liquid, have higher volume and competition for executions is more intense.

The Exchange believes that the proposed changes to the SPY, QQQ, and IWM pricing for Market Makers and Priority Customers are equitable and not unfairly discriminatory because they will apply uniformly to similarly situated market participants (*i.e.*, the proposed Tier 1 through Tier 4 Maker Fees in SPY, QQQ, and IWM will apply uniformly to Market Makers and the proposed Tier 1 through Tier 4 Taker Rebates in SPY, QQQ, and IWM will apply uniformly to Priority Customers). The Exchange believes that it is equitable and not unfairly discriminatory to apply the proposed changes to only Market Makers and Priority Customers. As it relates to Market Makers, the Exchange notes that they have different requirements and additional obligations that other market participants do not (such as quoting requirements).¹⁵ As such, the proposed Maker Fees of \$0.02 per contract (which continue to be significantly lower than the \$0.50 per contract Market Maker Maker Fees assessed for other Penny

Symbols) are designed to continue to incentivize Market Maker add liquidity activity in SPY, QQQ, and IWM. As it relates to Priority Customers, the Exchange notes that these market participants have historically received more favorable pricing on the Exchange.¹⁶ Further, an increase in the activity of Priority Customers benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants, in turn, facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants, to the benefit of all market participants.

Priority Customer Taker Pricing

As discussed above, the Exchange proposes in new note 7 of Options 7, Section 3, Table 1 that Priority Customer orders will not receive the Tier 1 through Tier 4 Taker Rebates in Penny and Non-Penny Symbols for trades executed against another Priority Customer order. Instead, the Priority Customer order will be assessed \$0.00 per contract. The Exchange believes that its proposal is reasonable because Priority Customers will continue to receive more favorable pricing for removing liquidity in Penny and Non-Penny Symbols compared to Non-Priority Customers.¹⁷ Specifically, as set forth in Table 1 of Options 7, Section 3, all Non-Priority Customers currently pay a \$0.35 Taker Fee in Tiers 1–4 for removing liquidity in Penny Symbols, and a \$1.10 Taker Fee in Tiers 1–4 for removing liquidity in Non-Penny Symbols. Additionally, Priority Customers will continue to receive the generous Taker Rebates in Penny and Non-Penny Symbols for trades executed against Non-Priority Customers. The Exchange notes that other options exchanges, including for example its affiliate Nasdaq GEMX (“GEMX”), assess different taker pricing depending on the counterparty.¹⁸

The Exchange believes that its proposal is equitable and not unfairly discriminatory because it will apply uniformly to all Priority Customers. The Exchange does not believe it is unfairly discriminatory to apply the proposed changes to only Priority Customers

because Priority Customers will continue to receive more favorable pricing for removing liquidity in Penny and Non-Penny Symbols compared to Non-Priority Customers, as discussed above. The Exchange has historically provided more favorable pricing to Priority Customers.¹⁹ Furthermore, Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may trade with this order flow.

PIM Break-Up Rebates

The Exchange believes that the proposed changes to the qualifications for receiving the additional PIM break-up rebates in note 3 of Options 7, Section 3.A are reasonable, equitable, and not unfairly discriminatory for the reasons that follow. As discussed above, the Exchange is proposing to require Members not in Affiliated Member or Affiliated Entity relationships to execute 0.04% or greater of Customer Total Consolidated Volume which adds liquidity in non-PIM Priority Customer contracts in regular orders within a month to receive the additional rebates in note 3. With the proposed changes, the Exchange is effectively lowering the volume requirement and narrowing the scope of the rebate qualifications to regular orders. The Exchange believes that the lower volume requirement of 0.04% (versus the current 0.05%) is reasonable because it will further incentivize Members to bring liquidity adding non-PIM regular order flow for execution on the Exchange for the same rebate amounts, which the Exchange believes may result in tighter spreads, thereby making the Exchange a more attractive trading venue to the benefit of all market participants. The Exchange also believes it is reasonable to narrow the scope of the rebate qualifications in note 3 to only non-PIM regular orders because the Exchange believes that market participants are already sufficiently incentivized to bring Priority Customer non-PIM complex order flow to MRX through the Exchange’s existing pricing schedule.²⁰

The Exchange also believes that the proposed changes to the additional PIM break-up rebate qualifications are equitable and not unfairly discriminatory because the changes will apply uniformly to all similarly situated market participants. While the rebates

¹⁶ See, *e.g.*, maker/taker pricing for Priority Customers in Options 7, Section 3, Table 1; and complex order fees for Priority Customers in Options 7, Section 4.

¹⁷ “Non-Priority Customers” include Market Makers, Non-Nasdaq MRX Market Makers (FarMMs), Firm Proprietary/Broker-Dealers, and Professional Customers.

¹⁸ See GEMX Pricing Schedule at Options 7, Section 3, note 16.

¹⁹ See *supra* note 16.

²⁰ Specifically, the Exchange does not assess any complex order fees for Priority Customers today. See Options 7, Section 4.

¹⁵ See Options 2, Section 5.

will continue to apply only to Priority Customers, the Exchange believes that the application of this rebate program is equitable and not unfairly discriminatory because the Exchange has historically provided more favorable pricing for Priority Customers.²¹ Furthermore, Priority Customer order flow benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants, to the benefit of all market participants.

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.

In terms of intra-market competition, the Exchange does not believe that its proposal will place any category of market participants at a competitive disadvantage. The Exchange believes that all of the changes proposed above will incentivize market participants to direct more order flow to the Exchange, to the benefit of all market participants who may interact with this order flow. While some aspects of the proposal apply directly to Market Makers (through the Market Maker Tier 1 through Tier 4 Maker Fees for SPY, QQQ, and IWM) or Priority Customers (through the Priority Customer Tier 1 through Tier 4 Taker Rebates for SPY, QQQ, and IWM; the \$0.00 Taker Fee in Penny and Non-Penny Symbols when trading against another Priority Customer order; and the PIM break-up rebate qualification changes), the Exchange believes that the proposed changes taken together will fortify and encourage activity, especially Market Maker and Priority Customer activity, on the Exchange. As discussed above, all market participants will benefit from any increase in market activity that the proposal effectuates.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other options exchanges. Because competitors

are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²² At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-2024-30 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-MRX-2024-30. 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-MRX-2024-30 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18475 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100718; File No. SR-IEX-2024-13]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Fee Schedule Concerning Transaction Pricing

August 13, 2024.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

²¹ See *supra* note 16.

²² 15 U.S.C. 78s(b)(3)(A)(ii).

“Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that, on July 31, 2024, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b–4 thereunder,⁵ the Exchange is filing with the Commission a proposed rule change to amend the Exchange’s fee schedule applicable to Members⁶ (the “Fee Schedule”)⁷ pursuant to IEX Rule 15.110(a) and (c). Changes to the Fee Schedule pursuant to this proposal are effective upon filing,⁸ and will be operative on August 1, 2024.

The text of the proposed rule change is available at the Exchange’s website at www.iextrading.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to introduce two different tier-based volume-based pricing structures designed to improve

market quality on the Exchange by incentivizing Members to send more displayed liquidity adding orders to the Exchange. The first tier-based structure will provide for an enhanced rebate for executions of displayed liquidity adding orders priced at or above \$1.00 per share applicable to Members that meet certain liquidity adding requirements specified below. The second tier-based structure will provide for a higher fee for displayed liquidity removing orders priced at or above \$1.00 per share applicable to Members that do not trade a minimum amount of displayed liquidity adding volume as specified below.

Displayed Liquidity Adding Rebate Tiers

The Exchange proposes to introduce a tiered pricing structure applicable to the rebates provided for executions of displayed liquidity adding orders⁹ priced at or above \$1.00 per share (“Added Displayed Liquidity”).¹⁰ Specifically, the Exchange proposes to revise its Fee Schedule to set forth two volume-based rebate tiers: Tier 1 and Tier 2 (referred to in the Fee Schedule as the “Displayed Liquidity Adding Rebate Tiers”).

As proposed, Tier 1 will provide the Exchange’s current base rebate of \$0.0014 per share to all Added Displayed Liquidity for Members that add less than 10,000,000 ADV¹¹ of Added Displayed Liquidity. And Tier 2 will provide a rebate of \$0.0020 per share to all Added Displayed Liquidity for Members that add at least 10,000,000 ADV of Added Displayed Liquidity (a rebate of \$0.0006 more per share than the rebate provided currently and pursuant to Tier 1). IEX notes that this model of offering volume-based rebates is consistent with the rebates offered by competitor exchanges.¹² The Exchange also notes that the new proposed rebate for Tier 2 (as well as the current rebate that will be applicable to Tier 1) is

⁹ This higher rebate would apply to any orders assigned Fee Code Combinations ML, MLB, MLY, and MLYB.

¹⁰ Nothing in this rule filing affects trades below \$1.00 per share (“sub-dollar trades”). Sub-dollar trades would not impact the rebate tier calculations and remain ineligible for rebates.

¹¹ As proposed, IEX will introduce the following definition of ADV: “ADV” means average daily volume calculated as the number of shares added or removed that execute at or above \$1.00 per share, combined, per day. ADV is calculated on a monthly basis.

¹² See, e.g., MEMX Equities Fee Schedule (Effective July 16, 2024), available at <https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/>. However, IEX’s proposed Tier 2 would be based on each Member’s ADV, without a requirement to meet a total consolidated volume threshold.

lower than the highest rebates offered by competing exchanges.¹³

Accordingly, IEX proposes to update its Fee Schedule to make several revisions to reflect the proposed rebate tiers. First, the Exchange proposes to amend the Base Rates table to update the description and fees associated with Base Fee Code ML (“Add displayed liquidity”). As amended, the Base Rates table will list two base rates for Fee Code ML—the \$0.0014 rebate applied if “Member adds less than 10,000,000 ADV of displayed liquidity” and the higher \$0.0020 rebate applied if “Member adds at least 10,000,000 ADV of displayed liquidity.”

IEX also proposes to add Footnote 4 to the Transaction Fees section, which will be applicable to fee code ML in the Base Rates table, and to Fee Code Combinations ML, MLB, MLY, and MLYB in the Fee Code Combination and Associated Fees table. As proposed, Footnote 4 is titled “Displayed Liquidity Adding Rebate Tiers (Applicable to Executions at or above \$1)” and followed by a table describing Tier 1 and Tier 2, including the required criteria for each rebate tier and the applicable rebate, as described above.

The new rebate tiers are based on each Member’s ADV, which is not currently defined in IEX’s Fee Schedule. Therefore, IEX also proposes to update the list of “Definitions” in the Transaction Fees section of the Fee Schedule by renaming it “Definitions and Information”, and adding a definition of ADV and relevant information thereof to the list:

- “ADV” means average daily volume calculated as the number of shares added or removed (as applicable) that execute at or above \$1.00 per share, combined, per day. ADV is calculated on a monthly basis.

- The Exchange excludes from its calculations of ADV any trading day that the Exchange’s system experiences a disruption that lasts for more than 60 minutes during regular trading hours and any day with a scheduled early market close.

- Routed shares executed away from IEX are not included in ADV calculation.

- Auction and Opening Process executed shares are not included in ADV calculation.

- With prior notice to the Exchange, a Member may aggregate ADV with

¹³ See, e.g., MEMX Equities Fee Schedule, *supra* note 12 (maximum rebate of \$0.0037); Nasdaq Equity VII, Section 114 (maximum rebate of \$0.0036); New York Stock Exchange Price List 2024 (as of June 3, 2024), https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf (maximum rebate of \$0.0035).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b–4.

⁶ See IEX Rule 1.160(s).

⁷ See Investors Exchange Fee Schedule, available at <https://www.iexexchange.io/resources/trading/fee-schedule>.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

other Members with which the Member is affiliated pursuant to Rule 12b–2 under the Act.

In calculating a Member's ADV, the numerator will be the share volume of applicable transactions (*i.e.*, adding, removing, displayed, non-displayed, as applicable) during the month and the denominator will be the total number of eligible trading days in the month.

As noted above, when calculating ADV, the Exchange will exclude days with system disruptions that last for more than 60 minutes and days with scheduled early closes when determining the numerator and the denominator. An Exchange system disruption may occur, for example, where a certain group of securities traded on the Exchange is unavailable for trading due to an Exchange system issue. Similarly, the Exchange may be able to perform certain functions with respect to accepting and processing orders, but may have a failure to another significant process, such as routing to other market centers, that would lead Members that rely on such process to avoid utilizing the Exchange until the Exchange's entire system was operational. The Exchange believes that these types of Exchange system disruptions could preclude Members from participating on the Exchange to the extent that they might have otherwise participated on such days, and thus, the Exchange believes it is appropriate to exclude such days when determining a Member's ADV to avoid penalizing Members that might otherwise have met the ADV requirements for the higher rebate provided for in Tier 2. For similar reasons, the Exchange believes it is appropriate to exclude trading days with scheduled early closes, because the shorter trading days are likely to result in a lower monthly average daily trading volume for each Member. The Exchange notes that excluding system disruption days and trading days with scheduled early closes is consistent with the methodologies used by other exchanges when calculating each member's ADV.¹⁴

The Exchange will exclude routed shares that executed away from the Exchange from its ADV calculations because, by definition, these are not trades that added displayed liquidity to the Exchange.¹⁵ The Exchange notes that excluding routed shares from the calculation of ADV is also consistent with the practice of other exchanges

when calculating ADV.¹⁶ And the Exchange will exclude executions in the opening process for non-listed securities from its ADV calculations, because they are not eligible for any rebates and the adding and removing liquidity concepts are not applicable to the opening process.¹⁷

The Exchange will allow Members to aggregate their ADV with other Members with which they are affiliated,¹⁸ if Members provide prior notice to the Exchange. As proposed, to the extent that two or more affiliated companies maintain separate memberships with the Exchange and can demonstrate their affiliation by showing they control, are controlled by, or are under common control with each other, the Exchange would permit such Members to aggregate their ADV. Members will be responsible for having proper internal documentation in their books and records substantiating that the two or more Members seeking to aggregate their ADV are affiliates of one another. IEX notes that this grouping of Member affiliates is consistent with how IEX allows Member affiliates to apply IEX's optional anti-internalization functionality across affiliates,¹⁹ and is already a common practice for exchanges that offer tiered rebates, in order to not penalize two affiliated members when calculating rebate tiers.²⁰

As noted above, the Exchange is not proposing to change the fees applicable to executions of and with orders with an execution price below \$1.00 per share, which would remain free for such orders that provide displayed liquidity and subject to a fee of 0.09% of the total dollar volume of the execution for orders that take displayed liquidity. IEX is also not proposing to make any changes to the fees applicable to the execution of Retail²¹ orders that remove displayed liquidity, which will continue to execute for free.

The Exchange believes the proposed Displayed Liquidity Adding Rebate Tier structure would provide an incremental incentive for Members to send more orders to the Exchange in an effort to qualify for the proposed enhanced rebate offered by Tier 2 for executions

of Added Displayed Volume. As such, the proposed Displayed Liquidity Adding Rebate Tiers are designed to encourage Members that provide liquidity on the Exchange to maintain or increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue.

Displayed Liquidity Removing Fee Tiers

The Exchange also proposes to introduce a tiered pricing structure applicable to the fees charged for executions of displayed liquidity removing orders priced at or above \$1.00 per share. Specifically, the Exchange proposes to revise its Fee Schedule to set forth two volume-based fee tiers: Tier 1 and Tier 2 (referred to in the Fee Schedule as the "Displayed Liquidity Removing Fee Tiers").

As proposed, Tier 1 will apply a new \$0.0030 per share fee to all displayed liquidity removing orders for Members that add less than 25,000 ADV of Added Displayed Liquidity. And Tier 2 will apply the Exchange's current base displayed liquidity removing fee of \$0.0020 per share to all displayed liquidity removing orders for Members that add at least 25,000 ADV of Added Displayed Liquidity.²²

Accordingly, IEX proposes to update its Fee Schedule to amend the Base Rates table to update the description and fees associated with Base Fee Code TL ("Remove displayed liquidity"). As amended, the Base Rates table will list two base rates for Fee Code TL—the current \$0.0020 fee applied if a "Member adds at least 25,000 ADV of displayed liquidity", and the new \$0.0030 fee applied if a "Member adds less than 25,000 ADV of displayed liquidity."

IEX also proposes to add Footnote 5 to the Transaction Fees section, which will be applicable to fee code TL in the Base Rates table, and to fee code combinations TL, TLB, TLY, TLYB, TLW, and TLWB in the Fee Code Combination and Associated Fees table. As proposed, Footnote 5 is titled "Displayed Liquidity Removing Fee Tiers (Applicable to Executions at or above \$1)" and followed by a table describing Tier 1 and Tier 2, including the required criteria for each tier and the applicable fee, as described above.

The Exchange believes it is reasonable to charge its members an increased fee

¹⁴ See, e.g., MEMX Equities Fee Schedule, *supra* note 12.

¹⁵ IEX also notes that it only charges Members a nominal fee of \$0.0001 on top of the away market's transaction fee for each routable share that executes away from the Exchange.

¹⁶ See, e.g., MEMX Equities Fee Schedule, *supra* note 12.

¹⁷ Similarly, in the event that the Exchange were to have auctions, such transactions would also be excluded.

¹⁸ As defined in Rule 12b–2 under the Act, 17 CFR 240.12b–2.

¹⁹ See IEX Rule 11.190(e)(1)(B).

²⁰ See, e.g., the Nasdaq Stock Market LLC Equity 7, Section 127 ("Aggregation of Activity of Affiliated Members").

²¹ See IEX Rule 11.190(b)(15).

²² For purposes of determining a Member's Displayed Liquidity Removing Fee Tier, the Exchange will conduct the same ADV calculation described above.

for removing displayed liquidity from the Exchange if they do not trade a minimum amount of Added Displayed Liquidity volume on the Exchange. The proposed higher displayed liquidity removing fee in Tier 1 is designed to incentivize Members to maintain a minimum level of displayed adding activity on the Exchange. The Exchange notes this fee is consistent with other “maker-taker” exchanges that charge higher fees of members to remove liquidity if the members do not qualify for any volume tiers.²³ Similarly, some “taker-maker” exchanges charge liquidity removal fees of Members that do not maintain a meaningful level of liquidity adding activity. For example, Nasdaq BX charges \$0.0007 per share for all liquidity removing orders if the member does not add at least 50,000 ADV (by contrast, members that add at least 50,000 ADV qualify for at least a \$0.0005 per share rebate).²⁴ The Exchange periodically assesses its fee structure and based upon a recent assessment, the Exchange believes that these proposed pricing changes would further incentivize Members to submit displayed orders in securities priced at or above \$1.00 per share. The proposed fee changes are designed to incentivize posting displayed liquidity on IEX in securities priced at or above \$1.00 per share in order to address competitive factors (as discussed more thoroughly in the Statutory Basis section) and facilitate price discovery and price formation, which the Exchange believes benefits all Members and market participants.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) ²⁵ of the Act in general, and furthers the objectives of Sections 6(b)(4) ²⁶ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed fee change is reasonable,

fair and equitable, and non-discriminatory.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. IEX has concluded that, in the context of current regulatory requirements governing access fees and rebates, it will be able to more effectively compete with other exchanges for order flow by offering higher rebate incentives. Based upon informal discussions with market participants, IEX believes that Members and other market participants may be more willing to send displayed orders to IEX if the proposed fee structure was adopted.

Accordingly, IEX has designed the proposed access fee and rebate tiers to attract and incentivize displayed orders as well as order flow seeking to trade with such displayed orders. Moreover, increases in displayed liquidity would contribute to the public price discovery process which would benefit all market participants and protect investors and the public interest.

As it has stated repeatedly, IEX believes that the existing access fee level of \$0.0030 per share set by Rule 610 of Regulation NMS ²⁷ heavily affects the way that exchanges compete for order flow and has led to various market distortions and inefficiencies. It has also created a collective action problem that substantially hinders the ability of exchanges to compete by offering better execution quality and without relying on high access fees and correspondingly high rebates. The Commission can resolve this problem and help to promote more displayed liquidity by substantially reducing the access fee cap for all NMS stocks, a step that is consistent with other market-based trading cost measures and one favored by a broad spectrum of market participants and virtually all institutional investors that have commented on this issue.²⁸ IEX hopes to be able to further adjust its transaction prices in the near future to reflect a market-wide adoption of lower access fees as a result of this critically-needed reform.

Thus, as discussed in the Purpose section, the Exchange believes that the

proposed adoption of a volume-based rebate tier that provides higher rebates for Members that provide a relatively higher ADV of displayed liquidity is reasonable and consistent with the Act because it is designed to incentivize Members to add additional displayed orders on IEX. Specifically, the Exchange believes that the volume-based rebate tiers are reasonably designed to incentivize Members to add a meaningful volume of displayed liquidity by providing a \$0.0006 higher rebate for Members that qualify for Tier 2 than it provides to Members that qualify for Tier 1. As noted in the Purpose section, other exchanges offer rebate tiers, and thus the Exchange does not believe that this aspect of the proposal raises any new or novel issues not already considered by the Commission.

The Exchange also believes that adding to the Fee Schedule the notes defining “ADV” and additional notes describing the ADV calculation methodologies and criteria for determining whether a Member satisfies the requirements to qualify for any of the rebate or fee tiers is reasonable, equitable, and non-discriminatory because these notes and definitions are designed to ensure that the Fee Schedule is as clear and easily understandable as possible with respect to the requirements of the proposed rebate or fee tiers.

Additionally, the Exchange believes that excluding system disruption days and days with a scheduled early close when calculating ADV is reasonable, equitable, and non-discriminatory because, as explained above, the Exchange believes doing so would avoid penalizing Members that might otherwise have met the requirements to qualify for the proposed Displayed Liquidity Adding Rebate Tier 2 (or to avoid being subject to Displayed Liquidity Removing Fee Tier 1) but for the system disruption or scheduled early close. As discussed in the Purpose section, the exclusion of certain trading days from the ADV calculation is consistent with the methodologies used by other exchanges when calculating certain member trading and other volume metrics for purposes of determining whether members qualify for certain pricing incentives, including calculations of ADV for rebate tiers specifically. And as noted in the Purpose section, these exclusions are consistent with how other exchanges calculate ADV for rebate/fee tier purposes, and thus the Exchange does not believe that this aspect of the proposal raises any new or novel issues

²³ See, e.g., New York Stock Exchange Price List 2024 (as of June 3, 2024), *supra* note 13 (charging \$0.0030 per share for liquidity removing orders, but charging between \$0.00285 and \$0.00295 for the same orders if the member adds between 0.05% and 1.05% ADV of the Consolidated Average Daily Volume); see also MEMX Equities Fee Schedule, *supra* note 12 (charging \$0.0030 per share for liquidity removing orders, but charging \$0.00295 for the same orders if the member's ADV qualifies it for MEMX's Liquidity Removal Tier by having an ADV greater than or equal to 0.70% of the Total Consolidated Volume, including at least .35% of the Total Consolidated Volume remove ADV).

²⁴ See Nasdaq BX Equity VII, Section 118.

²⁵ 15 U.S.C. 78f.

²⁶ 15 U.S.C. 78f(b)(4).

²⁷ 17 CFR 242.610.

²⁸ See IEX comment letters on S7-30-22, Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better-Priced Orders: <https://www.sec.gov/comments/s7-30-22/s73022-20160364-328968.pdf>; <https://www.sec.gov/comments/s7-30-22/s73022-276579-672162.pdf>; <https://www.sec.gov/comments/s7-30-22/s73022-434239-1076742.pdf>.

not already considered by the Commission.

Further, the Exchange believes that excluding routed shares that execute away from the Exchange, is reasonable, equitable, and non-discriminatory because, as explained above, these orders do not execute on IEX. And, as noted above, excluding routed executions on other exchanges from the ADV calculation is consistent with the practice of other exchanges, and thus the Exchange does not believe that this aspect of the proposal raises any new or novel issues not already considered by the Commission.

Similarly, the Exchange believes that excluding shares that execute in an auction or the opening process from the ADV calculation is reasonable, equitable, and non-discriminatory because, as explained above, these executions are not eligible for rebates and the adding and removing liquidity concepts are not applicable to the auction or opening processes.

As described above, the proposed additional language in the Fee Schedule permitting aggregation of trades among affiliated Members for purposes of the ADV calculation is intended to avoid disparate treatment of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those business activities within a single corporate entity. Accordingly, the Exchange believes that its proposed policy is fair and equitable, and not unreasonably discriminatory. In addition to ensuring fair and equal treatment of its Members, the Exchange does not want to create incentives for its Members to restructure their business operations or compliance functions simply due to the Exchange's pricing structure. Moreover, as noted above, this proposed policy is consistent with the practice of the Exchange and other exchanges with respect to the aggregation of affiliated Members' volumes for purposes of determining ADV with respect to pricing tiers, and therefore, it does not raise any new or novel issues that have not previously been considered by the Commission.

As discussed above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Within that context, the proposed Displayed Liquidity Adding Rebate Tier structure is designed to keep IEX's displayed trading prices competitive with those of other exchanges. The proposed rebate for the new Displayed Liquidity Adding Rebate Tier 2 (as well as the current

rebate that will be applicable to Tier 1) are within the range offered by competing exchanges, and thus IEX does not believe that the proposal raises any new or novel issues not already considered by the Commission in the context of other exchanges' fees.

The Exchange further believes that the proposed rebate tiers are consistent with the Act's requirement that the Exchange provide for an equitable allocation of fees that is also not unfairly discriminatory, because the proposed rebate tiers will apply based on a Member's average daily volume (with no regard to the percentage of total market volume reflected by their trades) in an equal and nondiscriminatory manner to all Members, and all Members are eligible to qualify for any of the proposed rebate tiers.

Furthermore, as discussed in the Purpose section, the Exchange believes it is reasonable to adopt the proposed Displayed Liquidity Removing Fee Tiers, including the proposed higher displayed liquidity removing fee associated with Fee Tier 1 applied to Members that do not trade a minimum amount of Added Displayed Liquidity volume on the Exchange. In particular, the proposed fee tiers are designed to incentivize IEX Members to enter increased displayed liquidity adding orders on the Exchange in order to avoid the proposed higher fee tier. The Exchange believes that the proposed fee tiers are equitable and not unfairly discriminatory because they would apply to all similarly situated Members and because any Member may avoid imposition of the higher fees applied in Fee Tier 1 by adding the requisite level of displayed liquidity to the Exchange during a month. As noted above, the proposed Displayed Liquidity Removing Fee Tiers are within the range charged by competing exchanges, and thus IEX believes they do not raise any new or novel issues not already considered by the Commission in the context of other exchanges' fees. Additionally, the Exchange believes that the proposed fee tiers are reasonable because they are designed to incentivize Members to maintain a meaningful level of liquidity-adding activity on the Exchange.

The Exchange also believes that it is reasonable and consistent with the Act not to modify its displayed fees for sub-dollar executions to synchronize those fees with the proposed fees for executions at or above \$1.00 per share. The Exchange believes that the existing fee structure for such executions continues to be reasonably designed to incentivize displayed order flow (and orders seeking to trade with displayed order flow) in such securities.

Further, IEX believes that it is reasonable and consistent with the Act not to change the fees applicable to the execution of Retail orders that remove liquidity, which will continue to execute for free. In this regard, the Exchange believes that the existing fee structure continues to be reasonably designed to incentivize the entry of Retail orders, and notes that the Commission, in approving IEX's Retail Price Improvement Program, acknowledged the value of exchanges' offering incentives to attract both retail investor orders and orders specifically designated to execute only with retail orders.²⁹

Finally, to the extent this proposed fee change is successful in incentivizing the entry and execution of displayed orders on IEX, such greater liquidity will benefit all market participants by increasing price discovery and price formation as well as market quality and execution opportunities. And, as discussed above, IEX does not believe that any aspect of this proposal raises new or novel issues not already considered by the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX 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 does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited, and does not believe that such fees would burden competition between Members or competing venues. Moreover, as noted in the Statutory Basis section, the Exchange does not believe that the proposed changes raise any new or novel issues not already considered by the Commission.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different rebates and fees

²⁹ See Securities Exchange Act Release No. 86619 (August 9, 2019), 84 FR 41769, 41771 (August 15, 2019) (SR-IEX-2019-05).

are assessed on Members, these rebate and fee tiers are not based on the type of Member entering the orders that match, but rather on the Member's own trading activity. Further, the proposed fee changes continue to be intended to encourage market participants to bring increased order flow to the Exchange, which benefits all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)³⁰ of the Act.

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 under Section 19(b)(2)(B)³¹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2024-13 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-IEX-2024-13. 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-IEX-2024-13 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18472 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100715; File No. SR-CboeBYX-2024-027]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Replace the Regulatory Transaction Fee With a Sales Value Fee

August 13, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 30, 2024, Cboe BYX Exchange, Inc. (the "Exchange") filed with the Securities and Exchange Commission (the

"Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/BYX/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to add language concerning the application and collection of the Sales Value Fee, as described below.

By way of background, Section 31 of the Securities Exchange Act of 1934 (the "Act")³ requires each self-regulatory organization ("SRO") to pay the Securities and Exchange Commission ("SEC" or "Commission") twice annually a fee based on the aggregate dollar amount of certain sales of securities (*i.e.*, "covered sales"). A covered sale is a "sale of a security, other than an exempt sale or a sale of a security future, occurring on a national securities exchange or by or through any member of a national securities association otherwise than on

³⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

³¹ 15 U.S.C. 78s(b)(2)(B).

³² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.31.

a national securities exchange.”⁴ Assessing a sales fee to defray the cost of these fees is common practice among the national securities exchanges and associations, including the Exchange’s affiliate options exchanges.⁵ In fact, the Exchange currently assesses a fee on its Members⁶ for covered sales on the Exchange to recoup these amounts, which is described in Exchange Rule 15.1(b) (Regulatory Transaction Fee) but is not currently described on the Exchange’s Fee Schedule. The Exchange now proposes to amend its Fee Schedule to include information regarding this fee, including an explanation and description of the fee and how it is collected. In conjunction with the proposed addition to the Fee Schedule, the exchange also proposes to delete the applicable rule text found in Exchange Rule 15.1(b) and proposes to rename Rule 15.1(b) as “Reserved.”

Specifically, the Exchange proposes to add a section to the Fee Schedule labeled “Sales Value Fee”. The proposed new section defines the Sales Value Fee (“Fee”) as the fee assessed by the Exchange to each Member for sales in securities when a sale in an equity security occurs with respect to which the Exchange is obligated to pay a fee to the SEC under Section 31 of the Exchange Act or when a sell order in an equity security is routed for execution at a market other than the Exchange, resulting in a covered sale on that market and an obligation of the routing broker providing routing services for the Exchange, as described in Exchange Rules 2.11 and 2.12, to pay the related sales fee of that market. The proposed section provides that to the extent the Exchange may collect more from Members under the section than is due from the Exchange to the Commission under Section 31 of the Act, for example due to rounding differences, the excess monies collected may be used by the Exchange to fund its general operating expenses. The Exchange may reimburse its routing broker for all Section 31-related fees incurred by the routing broker in connection with the routing services it provides.

The proposed section explains that the transactions to which the Fee applies are sales of equities. The Fee is collected indirectly from Members through their clearing firms by the Depository [sic] Trust & Clearing Corporation (“DTCC”) on behalf of the Exchange with respect to sales in equity securities.⁷ For Members who do not have a DTCC account, the Exchange invoices these Members directly.

The proposed section also sets forth the formula for calculating the Fee. Specifically, the Fee with respect to sales in equity securities is equal to (i) the Section 31 fee rate⁸ multiplied by (ii) the Member’s aggregate dollar amount of covered sales resulting from equities [sic] that have a charge date in that month.⁹ The Fee is calculated and invoiced by the Exchange on a monthly basis, but is not paid to the Commission until the end of the applicable billing period.¹⁰ The billing period for Section 31-related fees is separated into two periods: (i) January 1 through August 31; and (ii) September 1 through December 31.¹¹ The Exchange notes that if the SEC’s Section 31 fee rate changes in the middle of a month, the Exchange will perform a separate calculation with respect to covered sales under the new fee rate for the remaining portion of the month.

In addition to the Exchange’s proposal to add the Fee to its Fee Schedule, the Exchange simultaneously proposes to delete the rule text found in Exchange Rule 15.1(b). Exchange Rule 15.1(b) currently provides a description of the Fee within the Exchange rulebook, which would be duplicative as the Fee will be set forth and more fully described in the Fee Schedule. The Exchange notes that the Fee, as described in Exchange Rule 15.1(b), is described only at a high-level and does not contain specific details about how the Exchange currently calculates and collects the Fee. Specifically, Exchange Rule 15.1(b) merely states that the Exchange assesses a Regulatory Transaction Fee to its Members in order to help fund the Exchange’s obligations to the Commission under Section 31. While Exchange Rule 15.1(b) does state how the Fee is calculated (which is

identical to the proposed calculation described on the Fee Schedule), there is no description of the types of transactions that trigger the Fee or how the fee is collected by the Exchange. The Exchange proposes to more fully describe its current practice of calculating and collecting the Fee by providing additional details on the Fee Schedule. In conjunction with removing the rule text in Exchange Rule 15.1(b), the Exchange proposes to rename Exchange Rule 15.1(b) as “Reserved.”

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁵ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes that the proposed rule change is consistent with these requirements because the proposed amended Fee Schedule text provides Members with detail regarding the circumstances under which the Exchange assesses a Sales Value Fee, and the current process by which the Fee is collected. The Exchange’s current codification of the Fee in Exchange Rule 15.1(b) does not accurately depict the Exchange’s current practice of

⁴ 17 CFR 240.31(a)(6).

⁵ See, e.g. Cboe C2 Options Fee Schedule, Sales Value Fee; NASDAQ Equities Price List, Sales Fees to Fund Section 31 Obligations; and NYSE Arca Rule 2.18 (Activity Assessment Fees).

⁶ See Rule 1.5(n). The term “Member” shall mean any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a “member” of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange.

⁷ See https://cdn.cboe.com/resources/membership/Direct_Debit_Opt-In_Form.pdf.

⁸ The Section 31 fee rate is the fee rate applicable to covered sales under section 31(b) of the Act. See 15 U.S.C. 78ee(b). The current rate applicable to equities securities transactions is \$27.80 per million dollars. See also https://cdn.cboe.com/resources/fee_schedule/2024/Regulatory-Transaction-Fee-Adjustment-per-SEC-Section-31-Rate-Change-Effective-May-22-2024.pdf.

⁹ 17 CFR 240.31(c).

¹⁰ 17 CFR 240.31(c)(1).

¹¹ 17 CFR 240.31(a)(2).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78f(b)(4).

calculating and collecting the Fee. The Exchange believes that amending the description of the Fee and placing this description on its Fee Schedule rather than in the Exchange rulebook will provide additional guidance to its Members about which transactions are subject to the Fee, how the Fee is calculated, and how the Fee is collected. As such, the proposed changes will increase transparency, help avoid Member confusion and foster better understanding of the application of the Fee, which the Exchange believes promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest. Further, the Exchange believes the proposed change is reasonable as the Exchange is proposing to assess the same Fee to its Members that the Exchange must pay to the Commission twice annually.

The Exchange believes the proposed change represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to all Members in that all Members submitting covered orders to the Exchange are assessed the Fee, which is equal to the fee that the Exchange is required to pay to the Commission. Furthermore, by moving the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule, all Members will have additional information about the types of orders subject to the Fee and how the Exchange collects the Fee from its Members, which do not currently appear in Exchange Rule 15.1(b). While Exchange Rule 15.1(b) describes at a high-level the Exchange's ability to assess a fee in order to help fund the Exchange's obligations under Section 31, it does not accurately depict the Exchange's current practice in regard to calculating and collecting the Fee from its Members. The proposed movement of the description of the Fee from Exchange Rule 15.1(b) to the Fee Schedule will not change how the Exchange calculates or collects the Fee from its Members, but rather will provide a more complete and accurate description of the Fee to all Members. All Members will be able to access a detailed description of the Fee on the Fee Schedule and as such, the description of the Fee found in Exchange Rule 15.1(b) that does not accurately describe the Exchange's current practice in calculating or collecting the Fee is no longer necessary.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes will impose any burden on intramarket competition. Particularly, the proposed change applies uniformly to all Members, in that the Sales Value Fee is applied uniformly to all Members' applicable covered orders. Similarly, the proposal to delete Rule 15.1(b) from the Exchange rulebook will not impose any burden on competition because the change applies to all Members uniformly, in that all Members will instead be able to access the description of the Sales Value Fee and how the Fee is calculated on the Fee Schedule.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, assessing a sales fee to defray the cost of fees assessed under Section 31 of the Act is common practice among the national securities exchanges and associations.¹⁶

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

¹⁶ *Supra* note 5.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2024-027 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-CboeBYX-2024-027. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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-CboeBYX-2024-027 and should be submitted on or before September 9, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-18469 Filed 8-16-24; 8:45 am]

BILLING CODE 8011-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA-2024-0029]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes two new collections for OMB approval, as well as revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA (SSA) Social Security Administration, OLC, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235

Fax: 833-410-1631

Email address:

OR.Reports.Clearance@ssa.gov

Or you may submit your comments online through <https://www.reginfo.gov/public/do/PRAmain> by clicking on Currently under Review—Open for Public Comments and choosing to click on one of SSA's published items. Please reference Docket ID Number [SSA-2024-0029] in your submitted response.

The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 18, 2024. Individuals can obtain copies of the collection

instruments by writing to the above email address.

1. New Applicant Survey (NAS)—0960-NEW

Background

The Social Security Administration (SSA) provides income assistance to more than 13 million working-age adults and children with disabilities through the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs. To evaluate these respondents as they navigate SSA's application process, we are implementing the New Applicant Survey (NAS). The objective of the New Applicant Survey (NAS) is to provide SSA's Office of Research, Demonstration, and Employment Support (ORDES) with information about recent applicants' experience at different stages or touchpoints in the disability application process. SSA will use findings from the survey to inform testable policy interventions to improve the application experience for applicant.

NAS Description

The primary goal of NAS is to help SSA improve our current application process through the use of feedback from the public who use it. The research questions and survey will allow SSA to evaluate current practices and improve upon them. Ultimately, we expect the purpose of this survey will help SSA to implement a better overall application experience for respondents, as they use SSA's systems.

To provide information to SSA regarding applicants' experiences at the different touchpoints in the disability application process, SSA's evaluation will include the following analysis components:

- *Comparison of Characteristics:*

Comparing characteristics of non-respondents (or the total sample) to those of respondents using information available for both non-respondents and respondents.

- *Modeling:*

Modeling response propensity using multivariate analyses, including observation and analysis of several outcome variables.

- *Evaluation of Differences:*

Evaluating differences found in comparisons between unadjusted (*i.e.*, base-) weighted estimates of selected sampling frame characteristics based on the survey respondents and the corresponding population (frame) parameter.

- *Comparison of Estimates:*

Comparing weighted survey estimates (*e.g.*, selected error rates by type) using unadjusted (base) weights versus nonresponse-adjusted weights.

We expect the NAS will help SSA answer the following research questions:

- What are the pre- and post-application employment experiences of awarded and denied SSDI and SSI applicants?
- What employment-, vocational-, medical-, or income-related services and supports did applicants use leading up to and since application?
- What sources of information about SSDI or SSI did the applicant use or have access to?
- What were the applicants' experiences with representation during the application or post-application periods?

SSA will conduct this survey with 10,000 respondents nationally. SSA will provide a list of recent adult applicants who have applied for Social Security disability benefits to the contractor to use for sample selection. To ensure that sampled applicants have recent experiences with the application process, we will restrict the target population to those who have applied, appealed, or received a determination in the six months prior to sampling. The sample will include individuals to whom SSA awarded benefits (beneficiaries), those to whom SSA denied benefits, as well as applicants who remain at different stages of the application process.

For this survey, we will use the following methods for recruitment:

- SSA Announcement
- Email to Appointed Representative from Appointed Representative Associations
- Email to Appointed Representative (Directly)
- First USPS Mailing to All Applicants, which will include a small cash incentive of \$2, a letter, and an information sheet
- Second USPS Mailing to All Applicants
- Third USPS Mailing to Nonrespondents
- Fourth USPS Mailing to Nonrespondents
 - Fifth contact introducing the telephone modality.

As part of recruitment, we will also conduct experiments regarding more cash incentives, invitations to complete the survey using multiple modalities (internet, paper, telephone), as well as an early-bird incentive.

The Survey Instrument

The survey asks questions that focus on the applicant's experience with different aspects of the application process. We will use it to collect data

¹⁹ 17 CFR 200.30-3(a)(12).

from 10,000 new applicants at different touchpoints in the application process to understand applicant experiences at each stage and obtain the information needed to address the research questions.

To accommodate respondent preferences, we will create three modalities of the survey instrument: internet-based, automated-telephone, and paper. The internet and telephone versions will have essentially the same design as these modalities use dynamic pathing, which facilitate the automatic skipping of questions based on the respondents' earlier responses. We will include instructions and formatting on the paper instrument which will also allow the respondents to skip questions based on previous responses; however, they will be able to see all of the questions (which is not the case on the internet and telephone versions).

The survey questions will focus on the following applicant experiences:

- Touchpoints in the application process completed and applicants' experience with the most recent touchpoints;
- Use of appointed representatives;
- Actions taken when applicants receive an unfavorable SSA decision;
- Use of and experience with SSA services;
- Recommendations for improvements to the application process;
- Personal financial environment including use of assistance programs;
- Personal support system; and
- Demographic information

SSA will use the information we collect from this survey to understand applicants' experiences at different stages in the application process, as well as the types of SSA services applicants accessed, and to evaluate changes to the

application process that could potentially improve applicants' experience. We will encourage respondents to complete the survey via the internet modality, but will not restrict them, or penalize respondents who choose a different method (paper or telephone). We will require informed consent for all participants.

Ultimately, we expect the purpose of this survey will help SSA to implement a better overall application experience for respondents, as they use SSA's systems.

The respondents are current SSA beneficiaries who have undergone the application process; individuals to whom SSA denied benefits; applicants for Social Security services in various stages of the application process, and their representatives (as applicable).

Type of Request: Request for a new information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Internet Survey (including informed consent and screener)	5,000	1	35	2,917	\$7.25	\$21,148
Paper Survey (including informed consent and screener)	3,500	1	35	2,280	7.25	16,530
Telephone Survey (including informed consent and screener)	1,500	1	40	1,000	7.25	7,250
Totals	10,000	.....	.....	6,197	.....	44,928

* We base this figure on the Federal minimum wage of \$7.25, as survey participants will have recently applied for SSA disability benefits and will typically not have started receiving benefits yet (<https://www.dol.gov/general/topic/wages/minimumwage>).

Note: Our contractor will schedule an appointment to call the recipient at their preferred date and time; therefore, the respondents will not incur an average wait time.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Statutory Benefit Continuation Election Statement—20 CFR 404.1597a, and 416.996—0960-NEW

Sections 223(g) and 1631(a)(7) of the Social Security Act (Act) provide that, when a disability Title II beneficiary or Title XVI recipient requests an appeal of a Social Security Administration's (SSA) determination stating that their physical or mental impairment(s) ceased, never existed, or is no longer disabling during a continuing disability review (CDR), the individual has the right to request disability benefits continue during their appeal. This process, known as Statutory Benefit Continuation (SBC), follows regulations set forth in 20 CFR 404.1597a(f) and 416.996(c–d) of the Code of Federal Regulations (Code). Currently, when SSA determines an individual's disability ceased or is no longer disabling, SSA sends the individual a notice of benefit termination informing them within 10 days after receipt of the notice their disability benefits will end, and they must submit in writing, or use

Form SSA–795, Statement of Claimant or Other Person (OMB No. 0960–0045), to complete a statement to elect or decline continuation of benefits. However, Form SSA–795 does not specifically address SBC elections, which often leads to incomplete submissions for those cases. For SBC cases, SSA's field office staff frequently need to follow-up with individuals to clarify their election or explain the available options. The SBC election is effective until SSA makes the determination or decision at the applicable appeal level. SSA requires the individual to make a separate election at each level of appeal, through the hearing level before an administrative law judge (ALJ). SBC is not available at the appeals council (AC) or federal court levels; however, if the AC remands a case back to the ALJ hearing level, and the individual did not previously elect SBC, SSA grants the individual another opportunity to make an SBC election at that time. If the individual elected SBC at a prior ALJ

hearing level, the field office (FO) automatically reinstates SBC after the AC sends the case to the hearing office. The FO reinstates benefits retroactive to the first month of non-payment resulting from the now vacated prior ALJ decision. A claimant has two opportunities to elect SBC during the appeal process: (1) the claimant can request SBC when appealing at the reconsideration level and then again at the hearing level, and (2) the claimant can request SBC at the hearing level only.

The following are eligible for SCB: SSI recipients whose benefits are based on disability or blindness; primary disability insurance beneficiaries; auxiliaries receiving benefits on the record of a primary disability beneficiary, disabled widow or widowers, disabled adult children; mothers or fathers receiving benefits based on having a disabled adult child in their care, and mothers or fathers receiving benefits based on having in their care a child under age 18 but over

age 15 who is disabled and receiving child's benefits.

SSA is requesting OMB approval of Form SSA-792, Statutory Benefit Continuation Election Statement to standardize our collection of an

individual's benefit continuation election choice. Form SSA-792 will allow the individual to elect from a variety of options available to them for continued disability benefits and Medicare coverage. The respondents are

Title II and Title XVI disability beneficiaries and recipients and Title II auxiliaries.

Type of Request: Request for a new information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
Reconsideration Appeal Level: Form SSA-792	60,038	1	40	40,025	* \$22.39	** 24	*** \$1,433,856
Hearing Appeal Level: Form SSA-792 ...	17,107	1	40	11,405	* 22.39	** 24	*** 408,573
Totals	77,145	.....	.....	51,430	.....	.....	*** 1,842,429

* We based this figure on the average of both DI payments based on SSA's current FY 2024 data (<https://mwww.ba.ssa.gov/legislation/2024FactSheet.pdf>), and U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm).

** We based this figure on averaging the average FY 2024 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. Disability Report—Appeal—20 CFR 404.1512, 416.912, 404.916(c), 416.1416(c), 422.140, 404.1713, 416.1513, 404.1740(b)(4), 416.1540(b)(4), and 405 Subpart C—0960-0144

SSA requires disability applicants who wish to appeal an unfavorable determination to complete Form SSA-3441-BK; the associated Electronic Disability Collect System (EDCS) interview; or the internet application, i3441. This allows claimants to disclose any changes to their disability, or

resources, which might influence SSA's unfavorable determination. SSA may use the information to: (1) reconsider and review an initial disability determination; (2) review a continuing disability; and (3) evaluate a request for a hearing. This information assists the State Disability Determination Services (DDS) and ALJ in preparing for the appeals and hearings, and in issuing a determination or decision on an individual's entitlement (initial or continuing) to disability benefits. In addition, the information we collect on the SSA-3441-BK, or related

modalities, facilitates SSA's collection of medical information to support the applicant's request for reconsideration; request for benefits cessation appeal; and request for a hearing before an ALJ. Respondents are individuals who appeal denial, reduction, or cessation of Social Security disability benefits and Supplemental Security Income (SSI) payments; individuals who wish to request a hearing before an ALJ; or their representatives.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office and teleservice wait time (minutes) **	Total annual opportunity cost (dollars) ***
SSA-3441-BK (Paper Form)	22,556	1	45	16,917	* \$22.40	** 24	*** \$581,034
Electronic Disability Collect System (EDCS)—Individuals	208,831	1	45	156,623	* 13.30	** 24	*** 3,194,062
Electronic Disability Collect System (EDCS)—Representatives	71,652	1	45	53,739	* 31.48	** 19	*** 12,405,985
i3441 (Internet Application)—Individuals	109,598	1	28	51,146	* 13.30	.....	*** 680,242
i3441 (Internet Application)—Representatives	656,424	1	28	306,331	* 31.48	.....	*** 9,643,300
Totals	1,069,061	.....	.....	584,756	.....	.....	*** 26,504,623

* We based these figures on average DI hourly wages for single students based on SSA's current FY 2024 data (<https://mwww.ba.ssa.gov/legislation/2024FactSheet.pdf>) and average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (<https://www.bls.gov/oes/current/oes231011.htm>), as well as a combination of those two figures (for the paper form, as we do not collect data on whether the paper forms are filled out by individuals or representatives or both).

** We based this figure on the average FY 2024 wait times for field offices, and the average teleservice wait time based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. Request for 800# Automated Telephone Services Knowledge-Based Authentication (RISA-KBA)—20 CFR 401.45—0960-0596

The Request for 800# Automated Telephone Services Knowledge-Based Authentication is the knowledge-based authentication method SSA uses to

allow individuals access to their personal information through our Automated Telephone Services. SSA's system asks requestors using the automated telephone services to provide additional identifying information unique to those individuals so SSA can authenticate their identities before

releasing personal information. The system requests this unique identifying information to authenticate both individuals and third parties who use our automated telephone system to seek personal information from SSA records, or to make changes to SSA records. The respondents are current beneficiaries, or

third parties who use the automated telephone system to request personal information from SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Automated Telephone Requestors	1,716,315	1	4	114,421	* \$31.48	** \$3,601,973

* We based these figures on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (<https://www.bls.gov/oes/current/oes231011.htm>).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. There is no actual charge to respondents to complete the application.

5. Prohibition of Payment of SSI Benefits to Fugitive Felons and Parole/ Probation Violators—20 CFR 416.708(o)—0960–0617

Section 1611(e)(4) of the Act precludes eligibility for SSI payments for certain fugitives and probation or parole violators. Our regulation at 20 CFR 416.708(o) requires individuals applying for, or receiving SSI to report

to SSA that: (1) they are fleeing to avoid prosecution for a crime; (2) they are fleeing to avoid custody or confinement after conviction of a crime; or (3) they are violating a condition of probation or parole. SSA uses the information we receive to determine eligibility on an initial claim for SSI payments or a redetermination of existing recipients. The collection is mandatory to ensure that an applicant or recipient does not

have a warrant for one of the three fleeing codes. If the respondent has a warrant for one of the three fleeing codes, SSA uses this information to deny payments. The respondents are SSI applicants and recipients, or their representative payees, who are reporting their status as a fugitive felon or probation or parole violator.
Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Fugitive Felon and Parole or Probation Violation screens within the SSI Claims System	1,000	1	1	17	* \$31.48	** \$535

* We based this figure on average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm#00-0000).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. There is no actual charge to respondents to complete the application.

6. Testimony by Employees and the Production of Records and Information in Legal Proceedings—20 CFR 403.100–403.155—0960–0619

Regulations at 20 CFR 403.100–403.155 of the Code establish SSA's policies and procedures for an individual; organization; or government

entity to request official agency information, records, or testimony of an agency employee in a legal proceeding when the agency is not a party. The request, which respondents submit in writing to SSA, must: (1) fully set out the nature and relevance of the sought testimony; (2) explain why the information is not available by other

means; (3) explain why it is in SSA's interest to provide the testimony; and (4) provide the date, time, and place for the testimony. Respondents are individuals or entities who request testimony from SSA employees in connection with a legal proceeding.
Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
20 CFR 403.100–403.155	100	1	60	100	* \$31.48	** \$3,148

* We based this figure on the average U.S. worker's mean hourly wages, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm#00-0000).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. There is no actual charge to respondents to complete the application.

Dated: August 14, 2024.
Naomi Sipple,
Reports Clearance Officer, Social Security Administration.
[FR Doc. 2024–18492 Filed 8–16–24; 8:45 am]
BILLING CODE 4191–02–P

DEPARTMENT OF STATE
[Public Notice:12495]
Proposed Establishment of Federally Funded Research and Development Centers—Third Notice
ACTION: Notice.

SUMMARY: The United States Department of State (DoS), Bureau of Administration, intends to sponsor Federally Funded Research and Development Centers (FFRDC) to facilitate public-private collaboration for numerous activities related to diplomacy and modernization. This is the third and final notice in the series

which must be published over a 90-day period in order to advise the public of the agency's intention to sponsor an FFRDC.

DATES: Written comments were due by 5:00 p.m. Eastern time on August 15, 2024.

ADDRESSES: Please send any comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

- Through the Federal eRulemaking Portal at www.regulations.gov and search for nonrulemaking docket DOS–2024–0021.

- By email: Submit electronic comments to FFRDC@state.gov.

- The summary of this rule can be found at www.regulations.gov/DOS–2024–0021.

SUPPLEMENTARY INFORMATION: The Department of State leads US engagement around the world building alliances and partnerships; facing up to aggression; aiding and supporting emerging democracies; and preserving US interests abroad. In a rapidly changing world with shifting politics, accelerated economic developments, global challenges such as climate change, and the increasing role digitization plays for both opportunity and threats, the Department is committed to leading through both policy and operational engagement on behalf of the nation and our government.

In a letter introducing the Department of State and U.S. Agency for International Development Joint Strategic Plan for 2022–2026, Secretary Blinken stated, “we are working to modernize and equip the Department and USAID to lead on 21st-Century challenges and deliver for the American people.”

Achieving U.S. goals for global leadership over the next decade will require the following:

- A diplomatic corps to use data in new ways to develop more foresight and insight, to inform policy options, to take actions and measure their effectiveness;
- New cross-sector partnerships and coalitions;

- Intergovernmental partnerships with the Department of Defense, the intelligence agencies, the Departments of Commerce, Treasury, Homeland Security, and Health and Human Services, and cross-government Councils (e.g., National Economic Council, National Security Council);

- New capabilities to plan, manage and execute initiatives and programs;

- A workforce that uses digital technology as tools to advance democracy and protect our interests and

counter the use of these same technologies as a threat; and

- An organization and operation that is agile and adaptive to a changing environment; attractive to new talent; and fosters long-term commitment between the organization and its people.

The Department requires long-term partnerships with organizations that can bring research, development, innovation, and support needed to guide the leadership and employees through this transformative period in our history. This will allow the Department to focus on the mission at hand, while adopting and integrating changes necessary to make consistent progress on these goals and surge, when needed, to address urgent issues that require data, partnerships, technology and insights applied in near-term operational situations.

To meet this need, the Department seeks to establish and sponsor one FFRDC under the authority of 48 CFR 35.017.

FFRDC Focus Areas

The FFRDC will be available to provide a wide range of support including, but not limited to the activities listed below. These focus areas have been updated since the first two notices **Federal Register** notice were published on May 17 and August 5, 2024:

- Diplomatic Innovation and Modernization (DIM)

The purpose of the DIM is to strengthen global engagement and humanitarian outcomes by pioneering research and development initiatives that address emerging threats and foster international cooperation.

- Global CyberTech Solutions (GCS)

The purpose of the GCS is to enhance global stability through cutting edge research and development in IT, cyber defense, systems engineering, and data analytics.

- Global Operations and Acquisitions (GOA)

The purpose of the GOA is to advance diplomatic effectiveness through collaborative and cutting-edge acquisition methodologies and tools, and data assessments of broad scale Departments needs, international cooperation, and innovative operational practices.

The FFRDC will partner with the Department of State in the design and pursuit of mission goals; provide rapid responsiveness to changing requirements for personnel in all aspects of strategic, technical and program management; recognize

Government objectives as its own objectives; partner in pursuit of excellence in public service; and allow for use of the FFRDC by non-sponsors. The Department is publishing this notice in accordance with 48 CFR 5.205(b) of the Federal Acquisition Regulations (FAR).

Planned Request for Information/ Sources Sought Notice

Based on internal requirements and public comments from the first two notices, the Department intends to issue a Request for Information/Sources Sought. All interested parties should monitor SAM.gov for that posting in the near future. In particular, the Department will be interested in feedback regarding the proposed scope of the work to be performed by the FFRDCs, and the presence of any existing private- or public-sector capabilities in these areas that the Department should be considering. All response instructions will be found in the Sources Sought notice when it is published.

Public Comments

Since drafting the second notice, the Department has received the following comments/questions and is hereby providing the following responses:

The Department received seven (7) comments since the second notice. All of these comments expressed interest in submitting responses, capabilities, or eventually proposals for the FFRDCs. One comment requested information on how Service-Disabled Veteran-Owned Businesses can be involved with the FFRDC; however, FFRDC contract holders must fall within the list of organization types within FAR 35.017(a)(3). Finally, one of the commenters did provide feedback on the focus areas listed in the previous notice, which will be considered in developing the final Statement of Objectives prior to a formal solicitation. The Department appreciates the interest and looks forward to receiving further comments/questions and submissions in response to the Sources Sought Notice.

Michael W. Derrios,

Deputy Assistant Secretary for Acquisition, & Senior Procurement Executive, Department of State.

[FR Doc. 2024–18454 Filed 8–16–24; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE**[Public Notice:12487]****Bureau of Political-Military Affairs,
Directorate of Defense Trade Controls:
Notifications to the Congress of
Proposed Commercial Export Licenses****AGENCY:** Department of State.**ACTION:** Notice.

SUMMARY: The Directorate of Defense Trade Controls and the Department of State give notice that the attached Notifications of Proposed Commercial Export Licenses were submitted to the Congress on the dates indicated.

DATES: The dates of notification to Congress are as shown on each of the 20 letters.

FOR FURTHER INFORMATION CONTACT: Ms. Paula C. Harrison, Directorate of Defense Trade Controls (DDTC), Department of State at (202) 663-3310; or access the DDTC website at <https://www.pmddtc.state.gov/ddtc> public and select "Contact DDTC," then scroll down to "Contact the DDTC Response Team" and select "Email." Please add this subject line to your message, "ATTN: Congressional Notification of Licenses."

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act (22 U.S.C. 2776) requires that notifications to the Congress pursuant to sections 36(c) and 36(d) be published in the **Federal Register** in a timely manner.

The following comprise recent such notifications and are published to give notice to the public.

January 8, 2024**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 22-026.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada, Mexico, and the UK to support the manufacture of various components for military platforms/applications.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

January 8, 2024**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 23-067.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of fully automatic rifles, upper receivers, and sound suppressors to Kazakhstan.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

January 8, 2024**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 23-072.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export to the UK of fully automatic rifles and sound suppressors.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 1, 2024**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 23-017.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components abroad controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export to Mexico of 7.62mm machine guns.

The U.S. government is prepared to license the export of these items having considered political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs

Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 1, 2024

**Congressional Notification Transmittal
Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–020.

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, please find enclosed a certification of a proposed amendment for the export of defense articles, including technical data, and defense services in the amount of \$1,000,000 or more and the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the assembly of kits and component parts into rifles and light machine guns in Mexico.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 1, 2024

**Congressional Notification Transmittal
Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–022.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to

Italy, Germany, Saudi Arabia, Spain and the UK to support the procurement, integration, and sustainment of aircraft targeting pods.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 14, 2024

**Congressional Notification Transmittal
Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–019.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components abroad controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of 5.56mm automatic carbines and spare parts to Mexico.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 15, 2024

**Congressional Notification Transmittal
Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 22–003.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export to Mexico of fully automatic machine guns.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 15, 2024

**Congressional Notification Transmittal
Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–065.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada and the UK to support the maintenance of aircraft wing assemblies and subassemblies.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 16, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–037.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Australia, Canada, New Zealand, Spain, and the UK to support the establishment of an in-country repair facility and system integration laboratory for a missile warning system in Australia.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 16, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–064.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Italy, Japan, the Netherlands and the UK to support the design, development, manufacture, and testing related to in-flight operating doors, weapons bay doors, engine inlet duct skins, engine inlet duct assembly and related subassemblies for aircraft.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 16, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–083.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed amendment to a Manufacturing License Agreement for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the UK to support the manufacture of assemblies and components for artillery projectiles.

The U.S. government is prepared to license the export of these items having taken into account political, military,

economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 22, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–058.

Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Norway to support the manufacture abroad of a rocket motor for a radar-guided missile.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

February 22, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–062.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to support the installation, integration, modification, maintenance, and repair for gas turbine engines for use in jet aircraft by the UAE.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

March 5, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–055.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Qatar and the UK to support the marketing, sale, delivery, and sustainment activities in support of a transport aircraft fleet.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification

which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

March 5, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–059.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of fully automatic rifles, spare parts and components to Mexico.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

March 14, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–050.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for

the export of firearms, parts, and components controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of 7.62mm and 5.56mm fully automatic rifles and sound suppressors to Timor-Leste.

The U.S. government is prepared to license the export of these items having considered political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

March 21, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–076.

Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more and the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the UK to support the manufacture of a ship-based missile.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

March 21, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–078.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Republic of Korea to continue to provide logistics, maintenance, and training support for a communications and electronics intelligence program.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

March 21, 2024

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–084.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components controlled under Category I of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the

export to Sweden of fully automatic rifles, machine guns, suppressors, and related components.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

Michael J. Vaccaro,

*Deputy Assistant Secretary, Directorate of
Defense Trade Controls, Department of State.*

[FR Doc. 2024–18503 Filed 8–16–24; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 12488]

**Bureau of Political-Military Affairs,
Directorate of Defense Trade Controls:
Notifications to the Congress of
Proposed Commercial Export Licenses**

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Directorate of Defense Trade Controls and the Department of State give notice that the attached Notifications of Proposed Commercial Export Licenses were submitted to the Congress on the dates indicated.

DATES: The dates of notification to Congress are as shown on each of the 17 Letters.

FOR FURTHER INFORMATION CONTACT: Ms. Paula C. Harrison, Directorate of Defense Trade Controls (DDTC), Department of State at (202) 663–3310; or access the DDTC website at <https://www.pmddtc.state.gov/ddtc> public and select “Contact DDTC,” then scroll down to “Contact the DDTC Response Team” and select “Email.” Please add this subject line to your message, “ATTN: Congressional Notification of Licenses.”

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act (22 U.S.C. 2776) requires that notifications to the Congress pursuant to sections

36(c) and 36(d) be published in the **Federal Register** in a timely manner.

The following comprise recent such notifications and are published to give notice to the public.

October 4, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–040.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada, Denmark, Finland, France, Germany, Italy, Romania, Spain, Sweden, Switzerland and the UK, to support the procurement, installation, integration, testing, training, operation, engineering support, troubleshooting, inspection, and factory acceptance testing of thermal imaging systems.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

October 4, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–041.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Costa Rica to support the manufacture of slip rings, brush blocks, polytwist, electric motors, resolvers, synchros, fiber optic motors, actuators, solenoids, circuit boards, and circuitry.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

October 4, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–042.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan, Singapore, and the UK to support the maintenance, repair, overhaul, upgrade (MRO&U) and related training on a fighter jet engine.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives

House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

October 4, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–051.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms controlled under Category 1 of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of 5.56mm fully automatic rifles to the Netherlands and Ukraine.

The U.S. government is prepared to license the export of these items having considered political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary of State, Bureau of
Legislative Affairs.*

October 16, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 22–064.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms abroad controlled under Category 1 the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of fully automatic machine guns to the UAE.

The U.S. government is prepared to license the export of these items having

taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

October 16, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–049.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada, France, and the UK to support the manufacture, overhaul, repair, modification, refurbishment, rework, inspection quality assurance activities, and testing of aircraft landing gear.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

October 16, 2023**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 23–052.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Australia and the UK to support the installation and integration of radios into Australia Department of Defence tactical vehicles.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

October 24, 2023**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 23–053.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Australia to support manufacture of countermeasure flares.

The U.S. government is prepared to license the export of these items having taken into account political, military,

economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

October 31, 2023**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 23–023.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Israel to support the procurement, inspection, assembly, testing, and shipment of bomb assemblies.

The U. S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

November 6, 2023**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 23–068.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Israel to support the qualification, modification, test, repair, assembly, manufacture, and production of components and parts for integration into a missile used in an air defense system.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

November 15, 2023**Congressional Notification Transmittal Letter**

Please find enclosed the following notification from the Department of State.

Department Notification Number: DDTC 21–045.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data and defense services, in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to UAE to support the sale and support of the F–16 Block 60 Fighter Aircraft.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification

which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

November 15, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 22–059.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services, in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada and the UAE to support the delivery and operation of an unmanned aircraft system.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

December 1, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–047.

Pursuant to section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada, Denmark, Germany, Italy, Luxembourg, Norway, Poland, and the UK to support the provision of post design services, additional initial spares, and to service support activities for a NATO ground surveillance UAV program.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

December 1, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–057.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components controlled under Category 1 of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of sound suppressors for rifles to the Republic of Korea.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the

Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

December 13, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–044.

Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data, and defense services for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Canada related to the manufacture of computing products for an internet communications program.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

December 13, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23–054.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed

a certification of a proposed license for the export of firearms, parts, and components controlled under Category 1 of the U.S. Munitions List in the amount of \$1,000,000 or more.

The transaction contained in the attached certification involves the export of fully automatic machine guns and spare barrels to Lithuania.

The U.S. government is prepared to license the export of these items having considered political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

December 13, 2023

Congressional Notification Transmittal Letter

Please find enclosed the following notification from the Department of State.

Department Notification Number:
DDTC 23-060.

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan to support the operation, installation, provisioning of organizational level maintenance, and the intermediate level maintenance of a ship-based weapon system.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Recipients:

Speaker of the House of Representatives
House Committee on Foreign Affairs
Senate Committee on Foreign Relations
Sincerely,
Naz Durakoğlu,
*Assistant Secretary, Bureau of
Legislative Affairs.*

Michael J. Vaccaro,

*Deputy Assistant Secretary, Directorate of
Defense Trade Controls, Department of State.*
[FR Doc. 2024-18502 Filed 8-16-24; 8:45 am]

BILLING CODE 4710-25-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 that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for applicable 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 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 July 25, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. BISIMWA, Bertrand, North Kivu, Congo, Democratic Republic of the; Uganda; DOB 08 Sep 1972; POB Bukavu, South Kivu, Congo, Democratic Republic of the; nationality Congo, Democratic Republic of the; Gender Male (individual) [DRCONGO].

Designated pursuant to section 1(a)(ii)(E)(ii) of Executive Order (E.O.) 13413 of October 27, 2006, "Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo," as amended by E.O. 13671 of July 8, 2014, "Taking Additional Steps To Address the National Emergency With Respect to the Conflict in the Democratic Republic of the Congo" (E.O. 13413, as amended) for being a leader of M23, an entity whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

2. NANGAA, Corneille Yobeluo (a.k.a. YOBELUO, Corneille Nangaa), Boulevard Biangala, No. 36 Q, Salongo Sud C, Lemba, Kinshasa, Congo, Democratic Republic of the; North Kivu, Congo, Democratic Republic of the; Uganda; 34 Tshatshi Avenue, Gombe, Kinshasa, Congo, Democratic Republic of the; DOB 09 Jul 1970; POB Bagboya, Haut-Uele, Congo, Democratic Republic of the; nationality Congo, Democratic Republic of the; Gender Male; Passport OP1097934 (Congo, Democratic Republic of the) expires 24 Jun 2027; alt. Passport DP0000149 (Congo, Democratic Republic of the) issued 12 Jan 2016 expires 11 Jan 2021; alt. Passport DP0003850 (Congo, Democratic Republic of the) issued 20 Nov 2017 expires 19 Nov 2022 (individual) [DRCONGO].

Designated pursuant to section 1(a)(ii)(E)(ii) of E.O. 13413, as amended, for being a leader of Congo River Alliance, an entity whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

3. SEMATAMA, Charles (a.k.a. "Sebanyana"), Hauts Plateaux, South Kivu, Congo, Democratic Republic of the; DOB 1975; POB Kalunyo Village, Kamombo Localities, South Kivu, Congo, Democratic Republic of the; nationality Congo, Democratic Republic of the; Gender Male (individual) [DRCONGO].

Designated pursuant to section 1(a)(ii)(E)(ii) of E.O. 13413, as amended, for being a leader of Twirwaneho, an entity whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

Entities

1. CONGO RIVER ALLIANCE (a.k.a. ALLIANCE FLEUVE CONGO; a.k.a. "AFC"), Congo, Democratic Republic of the; website <https://alliancefleuvecongo.org>; Email Address alliancefleuvecongo@gmail.com; Organization Established Date 15 Dec 2023 [DRCONGO].

Designated pursuant to section 1(a)(ii)(G) of E.O. 13413, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, M23, an entity whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

2. TWIRWANEHO, Hauts Plateaux, South Kivu, Congo, Democratic Republic of the; Organization Established Date 2008; Target Type Armed Group [DRCONGO].

Designated pursuant to section 1(a)(ii)(C)(3) of E.O. 13413, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, the targeting of women, children, or any civilians through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law in or in relation to the Democratic Republic of the Congo.

Dated: July 25, 2024.

Lisa M. Palluconi,

Deputy Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–18452 Filed 8–16–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Forms 2210 and 2210–F

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 2210, Underpayment of Estimated Tax by Individuals, Estate, and Trusts, and Form 2210–F, Underpayment of Estimated Tax by Farmers and Fishermen.

DATES: Written comments should be received on or before October 18, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Please include, “OMB Number: 1545–0140—Public Comment Request Notice” in the Subject line.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution

Avenue NW, Washington, DC 20224, or through the internet at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Underpayment of Estimated Tax by Individuals, Estate, and Trusts (Form 2210), and Underpayment of Estimated Tax by Farmers and Fishermen (Form 2210–F).

OMB Number: 1545–0140.

Regulation Project Number: Form 2210 and Form 2210–F.

Abstract: Internal Revenue Code section 6654 imposes a penalty for failure to pay estimated tax. Form 2210 is used by individuals, estates, and trusts. Form 2210–F is used by farmers and fisherman to determine whether they are subject to the penalty and to compute the penalty if it applies.

Current Actions: While there are no changes to the forms, updates to account for all ADL indicators within form AND instructions will result in an overall change in burden. These changes will result in an increase to the total annual burden hours by 197,549 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 80,150.

Estimated Average Time per Respondent: 3 hrs., 50 min.

Estimated Total Annual Burden Hours: 307,406.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: August 14, 2024.

Ronald J. Durbala,
IRS Tax Analyst.

[FR Doc. 2024–18535 Filed 8–16–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Procedures for Recovering Reasonable Administrative Costs

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden related to the procedures for recovering reasonable administrative costs.

DATES: Written comments should be received on or before October 18, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Please include, “OMB Number: 1545–1356—Public Comment Request Notice” in the Subject line.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala,

at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at Rjoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Requirements and procedure for recovering reasonable administrative costs.

OMB Number: 1545–1356.

Regulation Project Number: TD 8725.

Abstract: Under Internal Revenue Code Section 7430, a prevailing party may recover the reasonable administrative or litigation costs incurred in an administrative or civil proceeding that relates to the determination, collection, or refund of any tax, interest, or penalty. Treasury Regulation Section 301.7430–2(c) provides that the IRS will not award administrative costs under section 7430 unless the taxpayer files a written request in accordance with the requirements of the regulation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations, not-for-profit

institutions, farms, and the Federal government.

Estimated Number of Respondents: 38.

Estimated Time per Respondent: 2 hrs., 16 min.

Estimated Total Annual Burden Hours: 86.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility.

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

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: August 13, 2024.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2024–18539 Filed 8–16–24; 8:45 am]

BILLING CODE 4830–01–P



FEDERAL REGISTER

Vol. 89

Monday,

No. 160

August 19, 2024

Part II

Environmental Protection Agency

40 CFR Part 52

Air Plan Approval; WA; Update to Materials Incorporated by Reference;
Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2024–0151; FRL–11672–01–R10]

Air Plan Approval; WA; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Washington State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by Washington and approved by the EPA. In this final rule, the EPA is also notifying the public of corrections and clarifying changes in the Code of Federal Regulations (CFR) tables that identify the materials incorporated by reference into the Washington SIP. This update affects the materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective August 19, 2024.

ADDRESSES: The SIP materials for which incorporation by reference into 40 CFR part 52 is finalized through this action are available for inspection at the following locations: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101; and www.regulations.gov. To view the materials at the Region 10 Office, the EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to the EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52, “Approval and Promulgation of Implementation Plans,” of Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by the EPA is not reproduced in its entirety in 40 CFR part 52 but is “incorporated by reference.” This means that the EPA has approved a given state regulation or specified changes to the given regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows the EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action for violations of the SIP.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, the EPA from time to time must take action on proposed revisions containing new or revised state regulations. A submission from a state can revise one or more rules in their entirety, or portions of rules. The state indicates the changes in the submission (such as by using redline/strikethrough text) and the EPA then takes action on the requested changes. The EPA establishes a docket for its actions using a unique Docket Identification Number, which is listed in each action. These dockets and the complete submission are available for viewing on www.regulations.gov.

On May 22, 1997 (62 FR 27968), the EPA revised the procedures for incorporating by reference, into the Code of Federal Regulations, materials approved by the EPA into each SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing the EPA approval of revisions to a SIP, and streamlined the mechanisms for the EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for the EPA to maintain “SIP Compilations” that contain the federally approved regulations and source-specific permits submitted by each state agency.

The EPA generally updates these SIP Compilations every few years. Under

the revised procedures, the EPA must periodically publish an informational document in the rules section of the **Federal Register** notifying the public that updates have been made to a SIP Compilation for a particular state. The EPA began applying the 1997 revised procedures to the Washington SIP on March 20, 2013 (78 FR 17108). The EPA subsequently published updates to the IBR materials for Washington on December 8, 2014 (79 FR 72548), April 12, 2016 (70 FR 21470), February 8, 2019 (84 FR 2738), and August 3, 2021 (86 FR 41716).

A. Approved and Incorporated by Reference Regulatory Materials

Since the last IBR update, the EPA approved and incorporated by reference the following regulatory materials into the Washington SIP:

Table 1—Regulations Approved Statewide

- Washington Administrative Code, Chapter 173–423, Low Emission Vehicles, sections 010 (Purpose), 020 (Applicability), 025 (Effective Date), 030 (Incorporation by Reference), 040 (Definitions and Abbreviations), 050 (Requirement to Meet California Vehicle Emission Standards), 060 (Exemptions), 070 (Emission Standards, Warranty, Recall and Other California Provisions Adopted by Reference), 080 (Fleet Average Nonmethane Organic Gas (NMOG) and NMOG Plus NO_x Exhaust Emission Requirements, Reporting and Compliance), 100 (Manufacturer Delivery Reporting Requirements), 110 (Warranty Requirements), 120 (Recalls), 130 (Surveillance), 140 (Enforcement), and 150 (Severability). For more information, see 86 FR 61705 (November 8, 2021).

- Washington Administrative Code, Chapter 332–24—Forest Protection, sections 332–24–201 (Burning Permit Program—Requirements and Exceptions), 332–24–205 (General rules—Minimum Requirements for All Burning), 332–24–211 (Specific rules for small fires not requiring a written burning permit), 332–24–217 (Burning permit requirements—Penalty), and 332–24–221 (Specific Rules for Burning That Requires a Written Burning Permit). For more information, see 88 FR 54240 (August 10, 2023).

- Revised Code of Washington, Chapter 52.12—Fire Protection Districts, Powers—Burning Permits, sections 52.12.103 (Burning permits—Issuance—Contents) and 52.12.104 (Burning permits—Duties of permittee). For more information, see 88 FR 54240 (August 10, 2023).

- Revised Code of Washington, Chapter 70A.15—Washington Clean Air Act, sections 70A.15.1030(21) (Definitions, “Silvicultural burning”), 70A.15.5000 (Definition of “outdoor burning”), 70A.15.5010(2) (Outdoor burning—Fires prohibited—Exceptions), 70A.15.5020 (Outdoor burning—Areas where prohibited—Exceptions—Use for management of storm or flood-related debris—Silvicultural burning), 70A.15.5120 (Burning permits for abating or prevention of forest fire hazards, management of ecosystems, instruction or silvicultural operations—issuance—Fees), 70A.15.5130 (Silvicultural forest burning—Reduce statewide emissions Exemption—Monitoring program), 70A.15.5140 (Burning permits for abating or prevention of forest fire hazards, management of ecosystems, instruction or silvicultural operations—Conditions for issuance and use of permits—Air quality standards to be met—Alternate methods to lessen forest debris), 70A.15.5150 (Cooperation between department of natural resources and state, local, or regional air pollution authorities—Withholding of permits), and 70A.15.5190 (Outdoor burning allowed for managing storm or flood-related debris). For more information, see 88 FR 54240 (August 10, 2023).

- Revised Code of Washington, Chapter 76.04—Forest Protection, sections 76.04.005 (Definitions) and 76.04.205 (Burning Permits—Civil Penalty). For more information, see 88 FR 54240 (August 10, 2023).

- Washington Administrative Code, Chapter 173–405—Kraft Pulping Mills, section 173–405–040 (Emissions Standards), Chapter 173–410—Sulfite Pulping Mills, section 173–410–040 (Emissions Standards), and Chapter 173–415—Primary Aluminum Plants section 173–415–030 (Emissions Standards). For more information, see 88 FR 89582 (December 28, 2023).

Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 173–400–030 (Definitions), 173–400–070 (Emission Standards for Certain Source Categories), 173–400–081 (Startup and Shutdown), 173–400–082 (Alternative Emissions Limit That Exceeds an Emission Standard in the SIP) and 173–400–171 (Public Notice and Opportunity for Public Comment). For more information, see 88 FR 89582 (December 28, 2023).

Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 173–400–030 (Definitions), 173–400–070 (Emission Standards for Certain Source Categories), 173–400–081 (Startup and Shutdown), 173–400–082 (Alternative Emissions Limit That Exceeds an Emission Standard in the SIP) and 173–400–171 (Public Notice and Opportunity for Public Comment). For more information, see 88 FR 89582 (December 28, 2023).

Table 8—Additional Regulations Approved for the Southwest Clean Air Agency (SWCAA) Jurisdiction

- Southwest Clean Air Agency Regulations, SWCAA 400—General Regulations for Air Pollution Sources, sections 400–025 (Adoption of Federal Rules), 400–030 (Definitions), 400–036 (Portable Sources from Other Washington Jurisdictions), 400–050 (Emission Standards for Combustion and Incineration Units), 400–060 (Emission Standards for General Process Units), 400–072 (Small Unit Notification for Selected Source Categories), 400–074 (Gasoline Transport Tanker Registration), 400–091 (Voluntary Limits on Emissions), 400–105 (Records, Monitoring and Reporting), 400–106 (Emission Testing and Monitoring at Air Contaminant Sources), 400–109 (Air Discharge Permit Applications), 400–110 (Application Review Process for Stationary Sources (New Source Review), 400–111 (Requirements for New Sources in a Maintenance Plan Area), 400–112 (Requirements for New Sources in Nonattainment Areas), 400–113 (Requirements for New Sources in Attainment or Nonclassifiable Areas), 400–114 (Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source), 400–136 (Maintenance of Emission Reduction Credits in Bank), 400–151 (Retrofit Requirements for Visibility Protection), 400–171 (Public Involvement), 400–260 (Conflict of Interest), 400–810 (Major Stationary Source and Major Modification Definitions), 400–850 (Actual Emissions—Plantwide Applicability Limitation (PAL)), and Appendix A (SWCAA Method 9 Visual Opacity Determination Method). For more information, see 88 FR 67097 (September 29, 2023).

- Southwest Clean Air Agency Regulations, SWCAA 491—Emissions Standards and Controls for Sources Emitting Gasoline Vapors, sections 491–

010 (Policy and Purpose), 491–015 (Applicability), 491–020 (Definitions), 491–030 (Registration), 491–040 (Gasoline Vapor Control Requirements), 491–050 (Failures, Certification, Testing and Recordkeeping), and 491–060 (Severability). For more information, see 88 FR 66692 (September 28, 2023).

Table 9—Additional Regulations Approved for the Yakima Regional Clean Air Agency (YRCAA) Jurisdiction

- Yakima Regional Clean Air Agency Regulation 1, sections 3.04 (Wood Heaters) and 3.05 (Burn Bans). For more information, see 87 FR 3435 (January 24, 2022).

- Yakima Regional Clean Air Agency Regulation 1, sections 1.01 (Name of Agency), 1.02 (Short Title), 1.03 (Policy), 1.04 (Applicability), 1.06 (Records), 1.07 (General Provisions), 2.04 (Public Participation in Permitting), 3.01 (General Rules), 3.08 (Specific Dust Controls), 4.01 (Registration Program), 4.03 (Voluntary Limits on Emissions), Appendix A (Definitions of Words and Phrases), and Appendix B (Definitions of Acronyms and Abbreviations). For more information, see 87 FR 41064 (July 11, 2022).

- Yakima Regional Clean Air Agency Regulation 1, section 3.03 (Outdoor and Agricultural Burning). For more information, see 88 FR 66692 (September 28, 2023).

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 020 (Applicability), 025 (Adoption of Federal Rules), 030 (Definitions), 036 (Relocation of Portable Sources), 040 (General Standards for Maximum Emissions), 050 (Emission Standards for Combustion and Incineration Units), 060 (Emission Standards for General Process Units), 105 (Records, Monitoring and Reporting), 110 (New Source Review (NSR) for Sources and Portable Sources), 111 (Processing Notice of Construction Applications for Sources, Stationary), 112 (Requirements for New Sources in Nonattainment Areas), 113 (Requirements for New Sources in Attainment or Unclassifiable Areas), 117 (Special Protection Requirements for Federal Class I Areas), 118 (Designation of Class I, II, and III Areas), 131 (Issuance of Emission Reduction Credits), 136 (Use of Emission Reduction Credits (ERC)), 151 (Retrofit Requirements for Visibility Protection), 171 (Public Notice and Opportunity for Public Comment), 200 (Creditable Stack Height and Dispersion Techniques), 560 (General Order of Approval), 800 (Major Stationary Source and Major Modification in a Nonattainment Area), 810 (Major

Stationary Source and Major Modification Definitions), 820 (Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements), 830 (Permitting Requirements), 840 (Emission Offset Requirements), 850 (Actual Emissions Plantwide Applicability Limitation (PAL)), and 860 (Public Involvement Procedures). For more information, see 87 FR 41064 (July 11, 2022).

B. Regulatory Materials Removed From Incorporation by Reference in the SIP

Table 1—Regulations Approved Statewide

- Washington Administrative Code, Chapter 173–405—Kraft Pulping Mills, section 173–405–077 (Report of Startup, Shutdown, Breakdown or Upset Conditions), Chapter 173–410—Sulfite Pulping Mills, section 173–410–067 (Report of Startup, Shutdown, Breakdown or Upset Conditions), and Chapter 173–415—Primary Aluminum Plants section 173–415–070 (Report of Startup, Shutdown, Breakdown or Upset Conditions). For more information, see 88 FR 89582 (December 28, 2023).

Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 173–400–030(30)&(36) (Definitions) and 173–400–107 (Excess Emissions). For more information, see 88 FR 89582 (December 28, 2023).

Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 173–400–030(30)&(36) (Definitions) and 173–400–107 (Excess Emissions). For more information, see 88 FR 89582 (December 28, 2023).

Table 10—Additional Regulations Approved for the Yakima Regional Clean Air Agency (YRCAA) Jurisdiction

- Yakima Regional Clean Air Agency Regulation 1, state effective November 18, 1993, and December 15, 1995, sections 9.01 (Policy), 9.02 (Opacity), 9.03 (Prohibitive Fuel Types), 9.04 (Limitations of Sales of Solid Fuel Burning Devices), and 9.05 (Prohibition of Visible Emissions During Air Pollution Episodes). For more information, see 87 FR 3435 (January 24, 2022).
- Yakima Regional Clean Air Agency Regulation 1, state effective November

18, 1993 and December 15, 1995, sections 1.03 (Definitions), 2.02 (Control Officer—Powers & Duties), 2.03 (Miscellaneous Provisions), 2.04 (Confidentiality), 2.05 (Advisory Council), 3.01 (Notice of Violation—Corrective Action Hearings), 3.02 (Finality of Order), 3.03 (Stay of Order Pending Appeal), 3.04 (Voluntary Compliance), 4.02 (Notice of Construction), 4.03 (Exceptions to Article 4), 5.06 (General Standards for Maximum Permissible Emissions), 5.07 (Minimum Emission Standards for Combustion and Incineration Sources), 5.08 (Minimum Emissions Standards for General Process Sources), 5.10 (Sensitive Area Designation), 5.11 (Monitoring and Special Reporting), 5.12 (Preventive Measures), 8.01 (Penalty for Violation), 8.02 (Additional/Alternative Penalties), 8.03 (Assurance of Discontinuance), 8.04 (Restraining Order—Injunctions), 8.05 (Severability), 12.01 (State Regulations), 13.01 (Registration and Fee Schedule), 13.02 (Notice of Construction Fee Schedule), 13.03 (Outdoor Burning Permit Fees). For more information, see 87 FR 41064 (July 11, 2022).

- Yakima Regional Clean Air Agency Regulation 1, state effective December 15, 1995, sections 5.01 (Outdoor Burning), 5.02 (Regulations Applicable to all Outdoor Burning), 5.03 (Regulations Applicable to all Outdoor Burning within Jurisdiction of the Yakima County Clean Air Authority, Local Cities, Towns, Fire Protection Districts and Conservation Districts), 5.04 (Regulations Applicable to Permits Issued by the Yakima County Clean Air Authority for all Other Outdoor Burning), and 5.05 (Additional Restrictions on Outdoor Burning). For more information, see 88 FR 66692 (September 28, 2023).

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, state effective March 22, 1991 and September 20, 1993, sections 010 (Policy and Purpose), 091 (Voluntary Limits on Emissions), and 100 (Registration). For more information, see 87 FR 41064 (July 11, 2022).

II. EPA Action

In this action, the EPA is providing notification of an update to the materials incorporated by reference into the Washington SIP as of February 1, 2024, and identified in 40 CFR 52.2470(c) and (d). This update includes SIP materials submitted by Washington and approved by the EPA since the last IBR update. See 86 FR 41716 (August 3, 2021). In addition, The EPA is providing notification of the following corrections

and clarifying changes to 40 CFR 52.1770(c), (d), and (e):

Changes Applicable to Paragraph (c), Title

Changing the title of paragraph (c) to read “EPA-approved laws and regulations.”

Changes Applicable to Paragraph (c), Table 1

A. Changing the title of Table 1 to read “Table 1—Laws and Regulations Approved Statewide”;

B. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–405–021, 173–405–072, 173–405–086, 173–405–087, 173–410–062, 173–410–086, 173–410–087, 173–415–015, 173–415–020, and 173–415–060 to reflect the first page of the preamble (85 FR 10983, February 26, 2020) as opposed to the first page of the regulatory text (85 FR 10984, February 26, 2020);

C. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–423–010, 173–423–020, 173–423–025, 173–423–030, 173–423–040, 173–423–050, 173–423–060, 173–423–070, 173–423–080, 173–423–100, 173–423–110, 173–423–120, 173–423–130, 173–423–140, and 173–423–150 to reflect the first page of the preamble (86 FR 61705, November 8, 2021) as opposed to the first page of the regulatory text (86 FR 61707, November 8, 2021);

D. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–476–020, 173–476–150, and 173–476–900 to reflect the first page of the preamble (81 FR 69385, October 6, 2016) as opposed to the first page of the regulatory text (81 FR 69386, October 6, 2016);

E. Under “EPA approval date,” correcting **Federal Register** citations in entries 332–24–201, 332–24–205, 332–24–211, 332–24–217, 332–24–221, 52.12.103, 52.12.104, 70A.15.1030(21), 70A.15.5000, 70A.15.5010, 70A.15.5020, 70A.15.5120, 70A.15.5130, 70A.15.5140, 70A.15.5150, 70A.15.5190, 76.04.005, and 76.04.205 to reflect the first page of the preamble (88 FR 54240, August 10, 2023) as opposed to the first page of the regulatory text (88 FR 54242, August 10, 2023). We are also correcting the date format to be consistent with the other table entries;

F. Correcting entry “70A.15.5010 (2)” to “70A.15.5010”;

G. Correcting the subheading “Revised Code of Washington, Chapter 76.04—Washington Clean Air Act” to “Revised Code of Washington, Chapter 76.04—Forest Protection”; and

H. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–405–040, 173–410–040, and 173–415–030 to reflect the first page of the preamble (88 FR 89582) as opposed to the first page of the regulatory text (88 FR 89584, December 28, 2023). We are also correcting the date format to be consistent with the other table entries.

Changes Applicable to Paragraph (c), Table 2

A. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–400–025, 173–400–040, 173–400–050, 173–400–060, 173–400–105, and 173–400–740 to reflect the first page of the preamble (85 FR 10301) as opposed to the first page of the regulatory text (85 FR 10302, February 24, 2020);

B. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–400–111, 173–400–116, 173–400–710, 173–400–720, 173–400–730, 173–400–810, 173–400–830, 173–400–840, and 173–400–850 to reflect the first page of the preamble (81 FR 69385, October 6, 2016) as opposed to the first page of the regulatory text (81 FR 69386, October 6, 2016);

C. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–400–110 and 173–400–112 to reflect the first page of the preamble (81 FR 66823, September 29, 2016) as opposed to the first page of the regulatory text (81 FR 66825, September 29, 2016);

D. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–400–030, 173–400–070, 173–400–081, 173–400–082, and 173–400–171 to reflect the first page of the preamble (88 FR 89582, December 28, 2023) as opposed to the first page of the regulatory text (88 FR 89584, December 28, 2023). We are also correcting the date format to be consistent with the other table entries; and

E. Reinserting entry “173–400–036” which was inadvertently deleted.

Changes Applicable to Paragraph (c), Table 3

A. Under “EPA approval date,” correcting **Federal Register** citations in entries 78–005, 173–400–025, 173–400–030, 173–400–040, 173–400–050, 173–400–060, 173–400–105, 173–400–111, 173–400–116, 173–400–171, 173–400–710, 173–400–720, 173–400–730, 173–400–740, 173–400–810, 173–400–830, 173–400–840, and 173–400–850 to reflect the first page of the preamble (85 FR 4233, January 24, 2020) as opposed to the first page of the regulatory text (85 FR 4235, January 24, 2020); and

B. Under “EPA approval date,” correcting **Federal Register** citations in entries 78–010, 78–020, 78–030, 78–095, 78–120, 173–400–030(30) & (36), 173–400–036, 173–400–040(2), 173–400–070, 173–400–081, 173–400–091, 173–400–110, 173–400–112, 173–400–113, 173–400–117, 173–400–131, 173–400–136, 173–400–175, 173–400–200, 173–400–700, 173–400–750, 173–400–800, 173–400–820, and 173–400–860 to reflect the first page of the preamble (82 FR 24531, May 30, 2017) as opposed to the first page of the regulatory text (82 FR 24533, May 30, 2017).

Changes Applicable to Paragraph (c), Table 4

A. Revising the subheading to more accurately reflect jurisdictional applicability;

B. Under “EPA approval date,” correcting **Federal Register** citations in entries 4.01(A), 4.01(B), 173–400–025, 173–400–030, 173–400–040, 173–400–050, 173–400–060, 173–400–105, and 173–400–171 to reflect the first page of the preamble (85 FR 10301, February 24, 2020) as opposed to the first page of the regulatory text (85 FR 10302, February 24, 2020);

C. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–400–070, 173–400–111, 173–400–810, 173–400–830, 173–400–840, and 173–400–850 to reflect the first page of the preamble (81 FR 69385, October 6, 2016) as opposed to the first page of the regulatory text (81 FR 69386, October 6, 2016);

D. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–400–110 and 173–400–112 to reflect the first page of the preamble (81 FR 66823, September 29, 2016) as opposed to the first page of the regulatory text (81 FR 66825, September 29, 2016);

E. Under “EPA approval date,” correcting **Federal Register** citations in entries 173–400–030, 173–400–070, 173–400–081, 173–400–082, and 173–400–171 to reflect the first page of the preamble (88 FR 89582, December 28, 2023) as opposed to the first page of the regulatory text (88 FR 89584, December 28, 2023). We are also correcting the date format to be consistent with the other table entries; and

F. Reinserting entry “173–400–036” which was inadvertently deleted.

Changes Applicable to Paragraph (c), Table 5

Under “EPA approval date,” correcting **Federal Register** citations in entries 100, 101, 102, 200, 300, 305, 320, 321, 173–400–020, 173–400–025, 173–400–030, 173–400–050, 173–400–060,

173–400–091, 173–400–111, 173–400–112, 173–400–113, 173–400–117, 173–400–118, 173–400–131, 173–400–136, 173–400–151, 173–400–171, 173–400–200, 173–400–800, 173–400–810, 173–400–820, 173–400–830, 173–400–840, 173–400–850, and 173–400–860 to reflect the first page of the preamble (85 FR 36154, June 15, 2020) as opposed to the first page of the regulatory text (85 FR 36156, June 15, 2020).

Changes Applicable to Paragraph (c), Table 6

Revising the subheading to more accurately reflect jurisdictional applicability.

Changes Applicable to Paragraph (c), Table 7

Under “EPA approval date,” correcting **Federal Register** citations in entries 1.01, 1.07, 3.03(f), 3.04, 3.25, 5.03, 5.05, 6.01, 6.03, 6.09, 6.10, 7.09, 9.03, 9.04, 9.07, 9.08, 9.09, 9.11(a), 9.13, 9.15, 9.16, 9.18, 12.03, 173–400–030, 173–400–081, 173–400–081, 173–400–111, 173–400–112, 173–400–113, 173–400–117, 173–400–171, 173–400–200, 173–400–560, 173–400–800, 173–400–810, 173–400–820, 173–400–830, 173–400–840, 173–400–850, 173–400–860, 173–400–020, 173–400–040, 173–400–091, 173–400–105, 173–400–107, 173–400–118, 173–400–131, 173–400–136, 173–400–151, and 173–400–175 to reflect the first page of the preamble (85 FR 22355, April 22, 2020) as opposed to the first page of the regulatory text (85 FR 22357, April 22, 2020).

Changes Applicable to Paragraph (c), Table 8

A. Revising the heading “SWCAA 400—General Regulations for Air Pollution Sources” to “General Regulations for Air Pollution Sources” to be consistent with other entries;

B. Under “EPA approval date,” correcting **Federal Register** citations in entries 400–025, 400–030, 400–036, 400–050, 400–060, 400–072, 400–074, 400–091, 400–105, 400–106, 400–109, 400–110, 400–111, 400–112, 400–113, 400–114, 400–136, 400–151, 400–171, 400–260, 400–810, 400–850, and Appendix A to reflect the first page of the preamble (88 FR 67097, September 29, 2023) as opposed to the first page of the regulatory text (88 FR 67099, September 29, 2023);

C. Removing the duplicative entry 400–074 (state effective November 15, 2009) which was replaced by the version effective June 18, 2017; and

D. Under “EPA approval date,” correcting **Federal Register** citations in entries 491–010, 491–015, 491–020, 491–030, 491–040, 491–050, and 491–

060 to reflect the first page of the preamble (88 FR 66692, September 28, 2023) as opposed to the first page of the regulatory text (88 FR 66694, September 28, 2023).

Changes Applicable to Paragraph (c), Table 10

A. Under “EPA approval date,” correcting **Federal Register** citations in entries 1.01, 1.02, 1.03, 1.04, 1.06, 1.07, 2.04, 3.01, 3.08, 4.01, 4.03, Appendix A, Appendix B, 173–400–020, 173–400–025, 173–400–030, 173–400–036, 173–400–040, 173–400–050, 173–400–060, 173–400–105, 173–400–110, 173–400–111, 173–400–112, 173–400–113, 173–400–117, 173–400–118, 173–400–131, 173–400–136, 173–400–151, 173–400–171, 173–400–200, 173–400–560, 173–400–800, 173–400–810, 173–400–820, 173–400–830, 173–400–840, 173–400–850, and 173–400–860 to reflect the first page of the preamble (87 FR 41064, July 11, 2022) as opposed to the first page of the regulatory text (87 FR 41068, July 11, 2022);

B. Under “State/local effective date,” correcting the citation for entry 3.03 to “11/09/20”;

C. Under “EPA approval date,” correcting the **Federal Register** citation in entry 3.03 to reflect the first page of the preamble (88 FR 66690, September 28, 2023) as opposed to the first page of the regulatory text (88 FR 66691, September 28, 2023); and

D. Under “Explanations,” revising entry 3.03 to standardize the citation format.

Changes Applicable to Paragraph (d)

Under “EPA approval date,” correcting **Federal Register** citations in entries “Tyson Fresh Meats, Inc”, “Packaging Corporation of America (Wallula Mill)”, and “Simplot Feeders Limited Partnership” to reflect the first page of the preamble (85 FR 25303, May 1, 2020) as opposed to the first page of the regulatory text (85 FR 25306, May 1, 2020).

Changes Applicable to Paragraph (e), Table 1

A. Restoring entries 173–400–240, 173–400–250, and 173–400–260 for the Washington Department of Ecology Regulations which were inadvertently overwritten by corollaries for the Southwest Clean Air Agency jurisdiction. See 88 FR 67097, September 29, 2023).

B. Removing entries 400–270 and 400–280 which were inadvertently included with the Washington Department of Ecology Regulations (see 88 FR 67097, September 29, 2023);

C. Under “EPA approval date,” correcting **Federal Register** citations in entries 463–78–135, 463–78–140, 463–78–170, and 463–78–230 for the Energy Facility Site Evaluation Council Regulations to reflect the first page of the preamble (82 FR 24531, May 30, 2017) as opposed to the first page of the regulatory text (82 FR 24533, May 30, 2017);

D. Under “EPA approval date,” correcting **Federal Register** citations in entries 103, 105, 110, 111, 112, 113, 114, 120, 123, 124, 131, 132, 133, 134, 135, and 303 for the Northwest Clean Air Agency Regulations to reflect the first page of the preamble (85 FR 36154, June 15, 2020) as opposed to the first page of the regulatory text (85 FR 36156, June 15, 2020);

E. Under “EPA approval date,” correcting **Federal Register** citations in entries 3.01, 3.05, 3.07, 3.09, 3.11, 3.13, 3.15, 3.17, 3.19, and 3.21 for the Puget Sound Clean Air Agency Regulations to reflect the first page of the preamble (85 FR 22355, April 20, 2022) as opposed to the first page of the regulatory text (85 FR 22357, April 20, 2022);

F. Revising entries 400–230, 400–240, 400–270, and 400–280 for the Southwest Clean Air Agency Regulations which were inadvertently listed with the Washington Department of Ecology Regulations (see 88 FR 67097, September 29, 2023); and

G. Removing entry 400–260 for the Southwest Clean Air Agency Regulations which was moved to paragraph (c) on September 29, 2023 (88 FR 67097).

H. Under “EPA approval date,” correcting **Federal Register** citations in entries 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.10, 2.11, and 2.12 for the Spokane Regional Clean Air Agency Regulations to reflect the first page of the preamble (86 FR 24718, May 10, 2021) as opposed to the first page of the regulatory text (86 FR 24720, May 10, 2021);

I. Under “Title/subject,” correcting entry 2.02 for the Spokane Regional Clean Air Agency Regulations to “Control Officer’s Duties and Powers”; and

J. Under “EPA approval date,” correcting **Federal Register** citations in entries 1.05, 2.01, 2.02, 2.05, 5.01, 5.02, and 5.03 for the Yakima Regional Clean Air Agency Regulations to reflect the first page of the preamble (87 FR 41064, July 11, 2022) as opposed to the first page of the regulatory text (87 FR 41068, July 11, 2022).

Changes Applicable to Paragraph (e), Table 2

A. Under “EPA approval date,” correcting **Federal Register** citations in

entries “Carbon Monoxide Maintenance Plan 10-year Update” (Puget Sound), “Carbon Monoxide Maintenance Plan 10-year Update” (Vancouver), “Carbon Monoxide 2nd 10-Year Limited Maintenance Plan” (Spokane), “8-Hour Ozone 110(a)(1) Maintenance Plan” (Seattle—Tacoma), “8-Hour Ozone 110(a)(1) Maintenance Plan” (Vancouver), and “Particulate Matter (PM₁₀) 2nd 10-Year Limited Maintenance Plan” (Kent, Seattle, and Tacoma) to reflect the first page of the preamble (86 FR 10026, February 18, 2021) as opposed to the first page of the regulatory text (86 FR 10027, February 18, 2021);

B. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Carbon Monoxide 2nd 10-Year Limited Maintenance Plan” (Spokane) to reflect the first page of the preamble (81 FR 45417, July 14, 2016) as opposed to the first page of the regulatory text (81 FR 45419, July 14, 2016);

C. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Particulate Matter (PM₁₀) 2nd 10-Year Limited Maintenance Plan” (Spokane) to reflect the first page of the preamble (81 FR 21470, April 12, 2016) as opposed to the first page of the regulatory text (81 FR 21471, April 12, 2016);

D. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Particulate Matter (PM₁₀) 2nd 10-Year Limited Maintenance Plan” (Wallula) to reflect the first page of the preamble (85 FR 25303, May 1, 2020) as opposed to the first page of the regulatory text (85 FR 25306, May 1, 2020);

E. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Regional Haze Progress Report” to reflect the first page of the preamble (83 FR 36752, July 31, 2018) as opposed to the first page of the regulatory text (83 FR 36754, July 31, 2018);

F. Adding the subheading “Smoke Management Planning” immediately before the entry “Department of Natural Resources 2022 Smoke Management Plan”;

G. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Department of Natural Resources 2022 Smoke Management Plan” to reflect the first page of the preamble (88 FR 54240, August 10, 2023) as opposed to the first page of the regulatory text (88 FR 54242, August 10, 2023). We are also correcting the date format to be consistent with the other table entries;

H. Under “EPA approval date,” correcting the **Federal Register** citation

in entry “110(a)(2) Infrastructure Requirements—2008 Lead Standard” to reflect the first page of the preamble (79 FR 42683, July 23, 2014) as opposed to the first page of the regulatory text (79 FR 42685, July 23, 2014);

I. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Interstate Transport for the 2008 Ozone NAAQS” to reflect the first page of the preamble (80 FR 77578, December 15, 2015) as opposed to the first page of the regulatory text (80 FR 77580, December 15, 2015);

J. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Interstate Transport for the 2012 PM_{2.5} NAAQS” to reflect the first page of the preamble (83 FR 42031) as opposed to the first page of the regulatory text (83 FR 42032);

K. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Interstate Transport for the 2015 Ozone NAAQS” to reflect the first page of the preamble (83 FR 47568, September 20, 2018) as opposed to the first page of the regulatory text (83 FR 47569, September 20, 2018);

L. Under “EPA approval date,” correcting the **Federal Register** citation in entry “110(a)(2) Infrastructure Requirements—Sulfur Dioxide Standards and 2015 Ozone Standards” to reflect the first page of the preamble (86 FR 10022, February 18, 2021) as opposed to the first page of the regulatory text (86 FR 10024, February 18, 2021);

M. Under “EPA approval date,” correcting the **Federal Register** citation in entry “Interstate Transport for the 2010 SO₂ NAAQS” to reflect the first page of the preamble (86 FR 10015, February 18, 2021) as opposed to the first page of the regulatory text (86 FR 10016, February 18, 2021);

N. Under “EPA approval date,” correcting the **Federal Register** citation in entry “2003 Columbia Plateau Windblown Dust Natural Events Action Plan” to reflect the first page of the preamble (85 FR 25303, May 1, 2020) as opposed to the first page of the regulatory text (85 FR 25306, May 1, 2020); and

O. Under “EPA approval date,” correcting the **Federal Register** citation in entry “2018 Fugitive Dust Control Guidelines for Beef Cattle Feedlots and Best Management Practices” to reflect the first page of the preamble (85 FR 25303, May 1, 2020) as opposed to the first page of the regulatory text (85 FR 25306, May 1, 2020).

III. Good Cause Exemption

The EPA has determined that this action falls under the “good cause”

exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs, makes corrections and clarifying changes to the tables in the CFR, and makes ministerial changes to the prefatory heading to the tables in the CFR. Under section 553 of the APA, an agency may find good cause where procedures are “impracticable, unnecessary, or contrary to the public interest.” Public comment for this administrative action is “unnecessary” and “contrary to the public interest” since the codification (and corrections) only reflect existing law. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notification of the updated Washington SIP Compilation and notification of corrections to the Washington “Identification of Plan” portion of the CFR. Further, pursuant to section 553(d)(3), making this action immediately effective benefits the public by immediately updating both the SIP Compilation and the CFR “Identification of plan” section (which includes table entry corrections).

IV. Incorporation by Reference

In this document, The EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, The EPA is finalizing the incorporation by reference of regulations promulgated by Washington and local clean air agencies located in Washington, previously approved by the EPA and federally effective before February 1, 2024, contained in 40 CFR 52.2470(c), *EPA-approved regulations* and 40 CFR 52.2470(d) *EPA-approved state source-specific requirements* described in section II. of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the

provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, The EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

Executive Order (E.O.) 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

The EPA also believes that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. This is because prior EPA rulemaking actions for each individual component of the Washington SIP Compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA believes judicial review of this action under section 307(b)(1) is not available.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 25, 2024.
Casey Sixkiller,
Regional Administrator, Region 10.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

■ 2. In § 52.2470, paragraphs (b), (c), (d) and (e) are revised to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(b) *Incorporation by reference.*

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to February 1, 2024, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval and notification of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after February 1, 2024, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 10 certifies that the rules/regulations provided by the EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the Region 10 EPA Office at 1200 Sixth Avenue, Suite 155, Seattle, WA 98101. To obtain the material, please call (206) 553–0256. You may inspect the material with an EPA approval date prior to February 1, 2024, for Washington at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(c) *EPA-approved laws and regulations.*

TABLE 1—LAWS AND REGULATIONS APPROVED STATEWIDE
[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–405— Kraft Pulping Mills				
173–405–012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578.	Except: 173–405–040(1)(b); 173–405–040(1)(c); 173–405–040(3)(b); 173–405–040(3)(c); 173–405–040(4); 173–405–040(6)(b).
173–405–021	Definitions	5/24/19	2/26/20, 85 FR 10983.	
173–405–040	Emissions Standards	5/24/19	12/28/23, 88 FR 89582.	
173–405–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578.	

TABLE 1—LAWS AND REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173-405-061	More Restrictive Emission Standards.	3/22/91	1/15/93, 58 FR 4578.	Except 173-405-072(2).
173-405-072	Monitoring Requirements	5/24/19	2/26/20, 85 FR 10983.	
173-405-078	Emission Inventory	3/22/91	1/15/93, 58 FR 4578.	
173-405-086	New Source Review (NSR)	5/24/19	2/26/20, 85 FR 10983.	Except provisions related to WAC 173-400-114 and provisions excluded from our approval of WAC 173-400-110 through 173-400-113. Except 173-400-720(4)(a)(i through iv), 173-400-720(4)(b)(iii)(C), and 173-400-750(2) second sentence.
173-405-087	Prevention of Significant Deterioration (PSD).	5/24/19	2/26/20, 85 FR 10983.	
173-405-091	Special Studies	3/22/91	1/15/93, 58 FR 4578.	

Washington Administrative Code, Chapter 173-410—Sulfite Pulping Mills

173-410-012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578.	Except: 173-410-040(3)(b); 173-410-040(5).
173-410-021	Definitions	3/22/91	1/15/93, 58 FR 4578.	
173-410-040	Emissions Standards	5/24/19	12/28/23, 88 FR 89582.	
173-410-045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578.	
173-410-062	Monitoring Requirements	5/24/19	2/26/20, 85 FR 10983.	
173-410-071	Emission Inventory	3/22/91	1/15/93, 58 FR 4578.	Except provisions related to WAC 173-400-114 and provisions excluded from our approval of WAC 173-400-110 through 173-400-113. Except 173-400-720(4)(a)(i through iv), 173-400-720(4)(b)(iii)(C), and 173-400-750(2) second sentence.
173-410-086	New Source Review (NSR)	5/24/19	2/26/20, 85 FR 10983.	
173-410-087	Prevention of Significant Deterioration (PSD).	5/24/19	2/26/20, 85 FR 10983.	
173-410-100	Special Studies	3/22/91	1/15/93, 58 FR 4578.	

Washington Administrative Code, Chapter 173-415—Primary Aluminum Plants

173-415-010	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578.	Except 173-415-015(3).
173-415-015	Applicability	5/24/19	2/26/20, 85 FR 10983.	
173-415-020	Definitions	5/24/19	2/26/20, 85 FR 10983.	Except 173-415-020(6).
173-415-030	Emissions Standards	5/24/19	12/28/23, 88 FR 89582.	Except: 173-415-030(1); 173-415-030(3)(b).
173-415-060	Monitoring and Reporting	5/24/19	2/26/20, 85 FR 10983.	Except 173-415-060(1)(b).

Washington Administrative Code, Chapter 173-423—Low Emission Vehicles

173-423-010	Purpose	12/29/12	11/8/21, 86 FR 61705.	Except 173-423-040(3).
173-423-020	Applicability	12/31/05	11/8/21, 86 FR 61705.	
173-423-025	Effective Date	12/31/05	11/8/21, 86 FR 61705.	
173-423-030	Incorporation by Reference	12/31/05	11/8/21, 86 FR 61705.	
173-423-040	Definitions and Abbreviations	12/29/12	11/8/21, 86 FR 61705.	
173-423-050	Requirement to Meet California Vehicle Emission Standards.	12/29/12	11/8/21, 86 FR 61705.	Except 173-423-050(2)(g).
173-423-060	Exemptions	12/29/12	11/8/21, 86 FR 61705.	

TABLE 1—LAWS AND REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173-423-070	Emission Standards, Warranty, Recall and Other California Provisions Adopted by Reference.	1/27/19	11/8/21, 86 FR 61705.	Except the incorporation by reference of California code sections 1961.1 and 1961.3.
173-423-080	Fleet Average Nonmethane Organic Gas (NMOG) and NMOG Plus NO _x Exhaust Emission Requirements, Reporting and Compliance.	12/29/12	11/8/21, 86 FR 61705.	
173-423-100	Manufacturer Delivery Reporting Requirements.	12/29/12	11/8/21, 86 FR 61705.	
173-423-110	Warranty Requirements	12/29/12	11/8/21, 86 FR 61705.	
173-423-120	Recalls	12/29/12	11/8/21, 86 FR 61705.	
173-423-130	Surveillance	12/31/05	11/8/21, 86 FR 61705.	
173-423-140	Enforcement	12/31/05	11/8/21, 86 FR 61705.	
173-423-150	Severability	12/31/05	11/8/21, 86 FR 61705.	

Washington Administrative Code, Chapter 173-425—Open Burning

173-425-010	Purpose	10/18/90	1/15/93, 58 FR 4578.	
173-425-020	Applicability	10/18/90	1/15/93, 58 FR 4578.	
173-425-030	Definitions	10/18/90	1/15/93, 58 FR 4578.	
173-425-036	Curtailment During Episodes or Impaired Air Quality.	10/18/90	1/15/93, 58 FR 4578.	
173-425-045	Prohibited Materials	1/3/89	1/15/93, 58 FR 4578.	
173-425-055	Exceptions	10/18/90	1/15/93, 58 FR 4578.	
173-425-065	Residential Open Burning	10/18/90	1/15/93, 58 FR 4578.	
173-425-075	Commercial Open Burning	10/18/90	1/15/93, 58 FR 4578.	
173-425-085	Agricultural Open Burning	10/18/90	1/15/93, 58 FR 4578.	
173-425-095	No Burn Area Designation	10/18/90	1/15/93, 58 FR 4578.	
173-425-100	Delegation of Agricultural Open Burning Program.	10/18/90	1/15/93, 58 FR 4578.	
173-425-115	Land Clearing Projects	10/18/90	1/15/93, 58 FR 4578.	
173-425-120	Department of Natural Resources Smoke Management Plan.	10/18/90	1/15/93, 58 FR 4578.	
173-425-130	Notice of Violation	10/18/90	1/15/93, 58 FR 4578.	
173-425-140	Remedies	10/18/90	1/15/93, 58 FR 4578.	

Washington Administrative Code, Chapter 173-430—Burning of Field and Forage and Turf Grasses Grown for Seed Open Burning

173-430-010	Purpose	10/18/90	1/15/93, 58 FR 4578.	
173-430-020	Definitions	10/18/90	1/15/93, 58 FR 4578.	
173-430-030	Permits, Conditions, and Restrictions.	10/18/90	1/15/93, 58 FR 4578.	
173-430-040	Mobile Field Burners	10/18/90	1/15/93, 58 FR 4578.	
173-430-050	Other Approvals	10/18/90	1/15/93, 58 FR 4578.	

TABLE 1—LAWS AND REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173-430-060	Study of Alternatives	10/18/90	1/15/93, 58 FR 4578.	
173-430-070	Fees	10/18/90	1/15/93, 58 FR 4578.	
173-430-080	Certification of Alternatives	10/18/90	1/15/93, 58 FR 4578.	
Washington Administrative Code, Chapter 173-433—Solid Fuel Burning Device Standards				
173-433-010	Purpose	2/23/14	5/9/14, 79 FR 26628.	
173-433-020	Applicability	12/16/87	1/15/93, 58 FR 4578.	
173-433-030	Definitions	2/23/14	5/9/14, 79 FR 26628.	
173-433-100	Emission Performance Standards.	2/23/14	5/9/14, 79 FR 26628.	
173-433-110	Opacity Standards	2/23/14	5/9/14, 79 FR 26628.	
173-433-120	Prohibited Fuel Types	2/23/14	5/9/14, 79 FR 26628.	
173-433-130	General Emission Standards	10/18/90	1/15/93, 58 FR 4578.	
173-433-140	Criteria for Impaired Air Quality Burn Bans.	2/23/14	5/9/14, 79 FR 26628.	
173-433-150	Restrictions on Operation of Solid Fuel Burning Devices.	2/23/14	5/9/14, 79 FR 26628.	
173-433-155	Criteria for Prohibiting Solid Fuel Burning Devices That Are Not Certified.	2/23/14	5/9/14, 79 FR 26628.	
Washington Administrative Code, Chapter 173-434—Solid Waste Incinerator Facilities				
173-434-010	Purpose	10/18/90	1/15/93, 58 FR 4578.	
173-434-020	Applicability and Compliance	1/22/04	8/4/05, 70 FR 44855.	
173-434-030	Definitions	1/22/04	8/4/05, 70 FR 44855.	
173-434-090	Operation and Maintenance Plan	10/18/90	1/15/93, 58 FR 4578.	
173-434-110	Standards of Performance	1/22/04	8/4/05, 70 FR 44855.	Except section (1)(a).
173-434-130	Emission Standards	1/22/04	8/4/05, 70 FR 44855.	Except section (2).
173-434-160	Design and Operation	1/22/04	8/4/05, 70 FR 44855.	
173-434-170	Monitoring and Reporting	1/22/04	8/4/05, 70 FR 44855.	
173-434-190	Changes in Operation	1/22/04	8/4/05, 70 FR 44855.	
173-434-200	Emission Inventory	1/22/04	8/4/05, 70 FR 44855.	
173-434-210	Special Studies	10/18/90	1/15/93, 58 FR 4578.	
Washington Administrative Code, Chapter 173-435—Emergency Episode Plan				
173-435-010	Purpose	1/3/89	1/15/93, 58 FR 4578.	
173-435-015	Significant Harm Levels	1/3/89	1/15/93, 58 FR 4578.	
173-435-020	Definitions	1/3/89	1/15/93, 58 FR 4578.	
173-435-030	Episode Stage Criteria	1/3/89	1/15/93, 58 FR 4578.	
173-435-040	Source Emission Reduction Plans.	1/3/89	1/15/93, 58 FR 4578.	

TABLE 1—LAWS AND REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173-435-050	Action Procedures	1/3/89	1/15/93, 58 FR 4578.	Except section (1).
173-435-060	Enforcement	1/3/89	1/15/93, 58 FR 4578.	
173-435-070	Sampling Sites, Equipment and Methods.	1/3/89	1/15/93, 58 FR 4578.	

Washington Administrative Code, Chapter 173-476—Ambient Air Quality Standards

173-476-010	Purpose	12/22/13	3/4/14, 79 FR 12077.	
173-476-020	Applicability	7/1/16	10/6/16, 81 FR 69385.	
173-476-030	Definitions	12/22/13	3/4/14, 79 FR 12077.	
173-476-100	Ambient Air Quality Standard for PM-10.	12/22/13	3/4/14, 79 FR 12077.	
173-476-110	Ambient Air Quality Standards for PM-2.5.	12/22/13	3/4/14, 79 FR 12077.	
173-476-120	Ambient Air Quality Standard for Lead (Pb).	12/22/13	3/4/14, 79 FR 12077.	
173-476-130	Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide).	12/22/13	3/4/14, 79 FR 12077.	
173-476-140	Ambient Air Quality Standards for Nitrogen Oxides (Nitrogen Dioxide).	12/22/13	3/4/14, 79 FR 12077.	
173-476-150	Ambient Air Quality Standard for Ozone.	7/1/16	10/6/16, 81 FR 69385.	
173-476-160	Ambient Air Quality Standards for Carbon Monoxide.	12/22/13	3/4/14, 79 FR 12077.	
173-476-170	Monitor Siting Criteria	12/22/13	3/4/14, 79 FR 12077.	
173-476-180	Reference Conditions	12/22/13	3/4/14, 79 FR 12077.	
173-476-900	Table of Standards	7/1/16	10/6/16, 81 FR 69385.	

Washington Administrative Code, Chapter 173-490—Emission Standards and Controls for Sources Emitting Volatile Organic Compounds

173-490-010	Policy and Purpose	3/22/91	7/12/93, 58 FR 37426.	
173-490-020	Definitions	3/22/91	7/12/93, 58 FR 37426.	
173-490-025	General Applicability	3/22/91	7/12/93, 58 FR 37426.	
173-490-030	Registration and Reporting	3/22/91	7/12/93, 58 FR 37426.	
173-490-040	Requirements	3/22/91	7/12/93, 58 FR 37426.	
173-490-080	Exceptions and Alternative Methods.	3/22/91	7/12/93, 58 FR 37426.	
173-490-090	New Source Review (NSR)	3/22/91	7/12/93, 58 FR 37426.	
173-490-200	Petroleum Refinery Equipment Leaks.	3/22/91	7/12/93, 58 FR 37426.	
173-490-201	Petroleum Liquid Storage in External Floating Roof Tanks.	3/22/91	7/12/93, 58 FR 37426.	
173-490-202	Leaks from Gasoline Transport Tanks and Vapor Collection System.	3/22/91	7/12/93, 58 FR 37426.	
173-490-203	Perchloroethylene Dry Cleaning Systems.	3/22/91	7/12/93, 58 FR 37426.	
173-490-204	Graphic Arts System	3/22/91	7/12/93, 58 FR 37426.	
173-490-205	Surface Coating of Miscellaneous Metal Parts and Products.	3/22/91	7/12/93, 58 FR 37426.	

TABLE 1—LAWS AND REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173-490-207	Surface Coating of Flatwood Paneling.	3/22/91	7/12/93, 58 FR 37426.	
173-490-208	Aerospace Assembly and Component Coating Operations.	3/22/91	7/12/93, 58 FR 37426.	
Washington Administrative Code, Chapter 173-492—Motor Fuel Specifications for Oxygenated Gasoline				
173-492-010	Policy and Purpose	10/19/96	4/30/97, 62 FR 23363.	
173-492-020	Applicability	12/1/92	4/30/97, 62 FR 23363.	
173-492-030	Definitions	12/1/92	4/30/97, 62 FR 23363.	
173-492-040	Compliance Requirements	12/1/92	4/30/97, 62 FR 23363.	
173-492-050	Registration Requirements	10/19/96	4/30/97, 62 FR 23363.	
173-492-060	Labeling Requirements	12/1/92	4/30/97, 62 FR 23363.	
173-492-070	Control Areas and Control Periods.	10/19/96	4/30/97, 62 FR 23363.	
173-492-080	Enforcement and Compliance	12/1/92	4/30/97, 62 FR 23363.	
173-492-090	Unplanned Conditions	12/1/92	4/30/97, 62 FR 23363.	
173-492-100	Severability	12/1/92	4/30/97, 62 FR 23363.	
Washington Administrative Code, Chapter 332-24—Forest Protection				
332-24-201	Burning Permit Program—Requirements and Exceptions.	6/30/92	8/10/23, 88 FR 54240.	
332-24-205	General rules—Minimum Requirements for All Burning.	11/22/19	8/10/23, 88 FR 54240.	Except section (13).
332-24-211	Specific rules for small fires not requiring a written burning permit.	7/31/92	8/10/23, 88 FR 54240.	Included for the purpose of setting the size limit for burns covered by the Department of Natural Resources 2022 Smoke Management Plan in paragraph (e), Table 2.
332-24-217	Burning permit requirements—Penalty.	7/31/92	8/10/23, 88 FR 54240.	
332-24-221	Specific Rules for Burning That Requires a Written Burning Permit.	2/1/12	8/10/23, 88 FR 54240.	
Revised Code of Washington, Chapter 52.12—Fire Protection Districts, Powers—Burning Permits				
52.12.103	Burning permits—Issuance—Contents.	3/27/84	8/10/23, 88 FR 54240.	
52.12.104	Burning permits—Duties of permittee.	3/27/84	8/10/23, 88 FR 54240.	
Revised Code of Washington, Chapter 70A.15—Washington Clean Air Act				
70A.15.1030(21)	Definitions. “Silvicultural burning”.	6/11/20	8/10/23, 88 FR 54240.	
70A.15.5000	Definition of “outdoor burning.” ..	7/26/20	8/10/23, 88 FR 54240.	
70A.15.5010	Outdoor burning—Fires prohibited—Exceptions.	6/11/20	8/10/23, 88 FR 54240.	Except (1).
70A.15.5020	Outdoor burning—Areas where prohibited—Exceptions—Use for management of storm or flood-related debris—Silvicultural burning.	6/11/20	8/10/23, 88 FR 54240.	Except (3).

TABLE 1—LAWS AND REGULATIONS APPROVED STATEWIDE—Continued

[Not applicable in Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation) and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction]

State citation	Title/subject	State effective date	EPA approval date	Explanations
70A.15.5120	Burning permits for abating or prevention of forest fire hazards, management of ecosystems, instruction or silvicultural operations—issuance—Fees.	6/11/20	8/10/23, 88 FR 54240.	
70A.15.5130	Silvicultural forest burning—Reduce statewide emissions—Exemption—Monitoring program.	7/28/19	8/10/23, 88 FR 54240.	
70A.15.5140	Burning permits for abating or prevention of forest fire hazards, management of ecosystems, instruction or silvicultural operations—Conditions for issuance and use of permits—Air quality standards to be met—Alternate methods to lessen forest debris.	6/11/20	8/10/23, 88 FR 54240.	
70A.15.5150	Cooperation between department of natural resources and state, local, or regional air pollution authorities—Withholding of permits.	6/11/20	8/10/23, 88 FR 54240.	
70A.15.5190	Outdoor burning allowed for managing storm or flood-related debris.	6/11/20	8/10/23, 88 FR 54240.	
Revised Code of Washington, Chapter 76.04—Forest Protection				
76.04.005	Definitions.	7/24/15	8/10/23, 88 FR 54240.	Except (2), (3), (4), (6), (7), (8), (10), (14), (16), (17), (19), (22).
76.04.205	Burning Permits—Civil Penalty.	7/25/21	8/10/23, 88 FR 54240.	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726.	
173–400–020	Applicability	12/29/12	10/3/14, 79 FR 59653.	
173–400–025	Adoption of Federal Rules	9/16/18	2/24/20, 85 FR 10301.	
173–400–030	Definitions	9/16/18	12/28/23, 88 FR 89582.	Except: 173–400–030(96).
173–400–036	Relocation of Portable Sources	12/29/12	4/29/15, 80 FR 23721.	
173–400–040	General Standards for Maximum Emissions.	9/16/18	2/24/20, 85 FR 10301.	Except: 173–400–040(2); 173–400–040(3); 173–400–040(5).
173–400–040(2)	General Standards for Maximum Emissions.	7/1/16	10/6/16, 81 FR 69385.	
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	2/24/20, 85 FR 10301.	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units.	11/25/18	2/24/20, 85 FR 10301.	
173–400–070	Emission Standards for Certain Source Categories.	9/16/18	12/28/23, 88 FR 89582.	Except: 173–400–070(5); 173–400–070(6); 173–400–070(7).

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION—Continued

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–081	Emissions Limits During Startup and Shutdown.	9/16/18	12/28/23, 88 FR 89582.	
173–400–082	Alternative Emissions Limit That Exceeds an Emission Standard in the SIP.	9/16/18	12/28/23, 88 FR 89582.	
173–400–091	Voluntary Limits on Emissions ...	4/1/11	10/3/14, 79 FR 59653.	9/20/93 version continues to be approved under the authority of CAA section 112(l) with respect to section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995)
173–400–105	Records, Monitoring, and Reporting.	11/25/18	2/24/20, 85 FR 10301.	
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	9/29/16, 81 FR 66823.	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, • “not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,”; The part of 400–110 (4)(e)(iii) that says, • “where toxic air pollutants as defined in chapter 173–460 WAC are not emitted”; The part of 400–110(4)(f)(i) that says, • “that are not toxic air pollutants listed in chapter 173–460 WAC”; The part of 400–110 (4)(h)(xviii) that says, • “, to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted”; The part of 400–110 (4)(h)(xxxiii) that says, • “where no toxic air pollutants as listed under chapter 173–460 WAC are emitted”; The part of 400–110(4)(h)(xxxiv) that says, • “, or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; The part of 400–110(4)(h)(xxxv) that says, • “or ≤ 1% (by weight) toxic air pollutants”; The part of 400–110(4)(h)(xxxvi) that says, • “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; 400–110(4)(h)(xl) , second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	10/6/16, 81 FR 69385.	Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • “and 173–460–040,”; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	9/29/16, 81 FR 66823.	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	4/29/15, 80 FR 23721.	Except: 173–400–113(3), second sentence.
173–400–116	Increment Protection	7/1/16	10/6/16, 81 FR 69385.	
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	4/29/15, 80 FR 23721.	
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	10/3/14, 79 FR 59653.	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	11/7/14, 79 FR 66291.	
173–400–136	Use of Emission Reduction Credits (ERC).	12/29/12	11/7/14, 79 FR 66291.	

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION—Continued

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012.]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	10/3/14, 79 FR 59653.	Except: The part of 173–400–171(3)(b) that says, • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC”; 173–400–171(12).
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	12/28/23, 88 FR 89582.	
173–400–175	Public Information	2/10/05	10/3/14, 79 FR 59653.	Except: The part of 173–400–560(1)(f) that says, “173–460 WAC”.
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	10/3/14, 79 FR 59653.	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	Except: 173–400–720(4)(a)(i through iv) and 173–400–720(4)(b)(iii)(C).
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–560	General Order of Approval	12/29/12	4/29/15, 80 FR 23721.	
173–400–700	Review of Major Stationary Sources of Air Pollution.	4/1/11	4/29/15, 80 FR 23721.	Except: 173–400–750(2) second sentence.
173–400–710	Definitions	7/1/16	10/6/16, 81 FR 69385.	
173–400–720	Prevention of Significant Deterioration (PSD).	7/1/16	10/6/16, 81 FR 69385.	
173–400–730	Prevention of Significant Deterioration Application Processing Procedures.	7/1/16	10/6/16, 81 FR 69385.	Except: 173–400–750(2) second sentence.
173–400–740	PSD Permitting Public Involvement Requirements.	9/16/18	2/24/20, 85 FR 10301.	
173–400–750	Revisions to PSD Permits	12/29/12	4/29/15, 80 FR 23721.	
173–400–800	Major Stationary Source and Major Modification in a Non-attainment Area.	4/1/11	11/7/14, 79 FR 66291.	Except: 173–400–750(2) second sentence.
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	10/6/16, 81 FR 69385.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	11/7/14, 79 FR 66291.	
173–400–830	Permitting Requirements	7/1/16	10/6/16, 81 FR 69385.	Except: 173–400–750(2) second sentence.
173–400–840	Emission Offset Requirements ...	7/1/16	10/6/16, 81 FR 69385.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	10/6/16, 81 FR 69385.	
173–400–860	Public Involvement Procedures ..	4/1/11	11/7/14, 79 FR 66291.	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 463–78—General and Operating Permit Regulations for Air Pollution Sources				
78–005	Adoption by Reference.	8/26/19	1/24/20, 85 FR 4233.	Subsection (1) only. See below for the updated Chapter 173–400 WAC provisions adopted by reference and submitted to the EPA for approval.
78–010	Purpose	8/27/15	5/30/17, 82 FR 24531.	
78–020	Applicability	11/11/04	5/30/17, 82 FR 24531.	
78–030	Additional Definitions.	8/27/15	5/30/17, 82 FR 24531.	
78–095	Permit Issuance	8/27/15	5/30/17, 82 FR 24531.	
78–120	Monitoring and Special Report.	11/11/04	5/30/17, 82 FR 24531.	
Washington Administrative Code, Chapter 173–400 Regulations Incorporated by Reference in WAC 463–78–005.				
173–400–025	Adoption of Federal Rules.	9/16/18	1/24/20, 85 FR 4233.	Except references to 173–401–200 and 173–406–101.
173–400–030	Definitions	9/16/18	1/24/20, 85 FR 4233.	
173–400–030(30) & (36)	Definitions	12/29/12	5/30/17, 82 FR 24531.	
173–400–036	Relocation of Portable Sources.	12/29/12	5/30/17, 82 FR 24531.	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104).
173–400–040	General Standards for Maximum Emissions.	9/16/18	1/24/20, 85 FR 4233.	
173–400–040(2) ..	General Standards for Maximum Emissions.	4/1/11	5/30/17, 82 FR 24531.	
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	1/24/20, 85 FR 4233.	Except: 173–400–040(2)(c); 173–400–040(2)(d).
173–400–060	Emission Standards for General Process Units.	11/25/18	1/24/20, 85 FR 4233.	
173–400–070	Emission Standards for Certain Source Categories.	12/29/12	5/30/17, 82 FR 24531.	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6). Except: 173–400–070(1); 173–400–070(2); 173–400–070(3); 173–400–070(4); 173–400–070(6); 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown.	4/1/11	5/30/17, 82 FR 24531.	
173–400–091	Voluntary Limits on Emissions.	4/1/11	5/30/17, 82 FR 24531.	
173–400–105	Records, Monitoring, and Reporting.	11/25/18	1/24/20, 85 FR 4233.	
173–400–107	Excess Emissions.	9/20/93	6/2/95, 60 FR 28726.	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC)
JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	5/30/17, 82 FR 24531.	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, “not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,”; The part of 400–110(4)(e)(iii) that says, “where toxic air pollutants as defined in chapter 173–460 WAC are not emitted”; The part of 400–110(4)(f)(i) that says, “that are not toxic air pollutants listed in chapter 173–460 WAC”; The part of 400–110(4)(h)(xviii) that says, “, to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted”; The part of 400–110(4)(h)(xxxiii) that says, “where no toxic air pollutants as listed under chapter 173–460 WAC are emitted”; The part of 400–110(4)(h)(xxxiv) that says, “, or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; The part of 400–110(4)(h)(xxxv) that says, “or ≤ 1% (by weight) toxic air pollutants”; The part of 400–110(4)(h)(xxxvi) that says, “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; 400–110(4)(h)(xl) , second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	1/24/20, 85 FR 4233.	Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • “and 173–460–040,”; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, 82 FR 24531.	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, 82 FR 24531.	Except: 173–400–113(3), second sentence.
173–400–116	Increment Protection.	7/1/16	1/24/20, 85 FR 4233.	
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	5/30/17, 82 FR 24531.	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	5/30/17, 82 FR 24531.	
173–400–136	Use of Emission Reduction Credits (ERC).	4/1/11	5/30/17, 82 FR 24531.	
173–400–161	Compliance Schedules.	3/22/91	6/2/95, 60 FR 28726.	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC)
JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	1/24/20, 85 FR 4233.	Except: The part of 173–400–171(3)(b) that says, • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC”; 173–400–171(3)(o); 173–400–171(12).
173–400–175	Public Information.	2/10/05	5/30/17, 82 FR 24531.	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	5/30/17, 82 FR 24531.	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–700	Review of Major Stationary Sources of Air Pollution.	4/1/11	5/30/17, 82 FR 24531.	Except: 173–400–720(4)(a)(i through iv) and 173–400–720(4)(b)(iii)(C).
173–400–710	Definitions	7/1/16	1/24/20, 85 FR 4233.	
173–400–720	Prevention of Significant Deterioration (PSD).	7/1/16	1/24/20, 85 FR 4233.	
173–400–730	Prevention of Significant Deterioration Application Processing Procedures.	7/1/16	1/24/20, 85 FR 4233.	
173–400–740	PSD Permitting Public Involvement Requirements.	9/16/18	1/24/20, 85 FR 4233.	
173–400–750	Revisions to PSD Permits.	12/29/12	5/30/17, 82 FR 24531.	Except: 173–400–750(2) second sentence.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	5/30/17, 82 FR 24531.	
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	1/24/20, 85 FR 4233.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	5/30/17, 82 FR 24531.	
173–400–830	Permitting Requirements.	7/1/16	1/24/20, 85 FR 4233.	
173–400–840	Emission Offset Requirements.	7/1/16	1/24/20, 85 FR 4233.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	1/24/20, 85 FR 4233.	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–860	Public Involvement Procedures.	4/1/11	5/30/17, 82 FR 24531.	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
----------------------	---------------	----------------------------	-------------------	--------------

Benton Clean Air Agency (BCAA) Regulations**Regulation 1**

1.01	Name of Agency	12/11/14	11/17/15, 80 FR 71695.	
1.02	Policy and Purpose	12/11/14	11/17/15, 80 FR 71695.	Replaces WAC 173–400–010.
1.03	Applicability	12/11/14	11/17/15, 80 FR 71695.	Replaces WAC 173–400–020.
4.01(A)	Definitions—Fugitive Dust	12/11/14	2/24/20, 85 FR 10301.	Replaces WAC 173–400–030(40).
4.01(B)	Definitions—Fugitive Emissions.	12/11/14	2/24/20, 85 FR 10301.	Replaces WAC 173–400–030(41).
4.02(B)	Particulate Matter Emissions—Fugitive Emissions.	12/11/14	11/17/15, 80 FR 71695.	Replaces WAC 173–400–040(4).
4.02(C)(1)	Particulate Matter Emissions—Fugitive Dust.	12/11/14	11/17/15, 80 FR 71695.	Replaces WAC 173–400–040(9)(a).
4.02(C)(3)	Particulate Matter Emissions—Fugitive Dust.	12/11/14	11/17/15, 80 FR 71695.	Replaces WAC 173–400–040(9)(b).

Washington Department of Ecology Regulations**Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources**

173–400–025	Adoption of Federal Rules ...	9/16/18	2/24/20, 85 FR 10301.	
173–400–030	Definitions	9/16/18	12/28/23, 88 FR 89582.	Except: 173–400–030(40); 173–400–030(41); 173–400–030(96).
173–400–036	Relocation of Portable Sources.	12/29/12	11/17/15, 80 FR 71695.	
173–400–040	General Standards for Maximum Emissions.	9/16/18	2/24/20, 85 FR 10301.	Except: 173–400–040(2); 173–400–040(3); 173–400–040(4); 173–400–040(5); 173–400–040(9).
173–400–040(2).	General Standards for Maximum Emissions.	7/1/16	10/6/16, 81 FR 69385.	Except: 173–400–040(2)(c); 173–400–040(2)(d).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	2/24/20, 85 FR 10301.	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units.	11/25/18	2/24/20, 85 FR 10301.	
173–400–070	Emission Standards for Certain Source Categories.	9/16/18	12/28/23, 88 FR 89582.	Except: 173–400–070(5); 173–400–070(6); 173–400–070(7).
173–400–081	Emissions Limits During Startup and Shutdown.	9/16/18	12/28/23, 88 FR 89582.	
173–400–082	Alternative Emissions Limit That Exceeds an Emission Standard in the SIP.	9/16/18	12/28/23, 88 FR 89582.	
173–400–091	Voluntary Limits on Emissions.	4/1/11	11/17/15, 80 FR 71695.	
173–400–105	Records, Monitoring and Reporting.	11/25/18	2/24/20, 85 FR 10301.	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—
Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	9/29/16, 81 FR 66823.	Except: 173–400–110(1)(c)(iii)(C); 173–400–110(1)(e); 173–400–110(2)(d); — The part of WAC 173–400–110(4)(b)(vi) that says, “not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,”; — The part of 400–110(4)(e)(iii) that says, “where toxic air pollutants as defined in chapter 173–460 WAC are not emitted”; The part of 400–110(4)(f)(i) that says, “that are not toxic air pollutants listed in chapter 173–460 WAC”; — The part of 400–110(4)(h)(xviii) that says, “, to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted”; — The part of 400–110(4)(h)(xxxiii) that says, “where no toxic air pollutants as listed under chapter 173–460 WAC are emitted”; — The part of 400–110(4)(h)(xxxiv) that says, “, or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; The part of 400–110(4)(h)(xxxv) that says, “or ≤1% (by weight) toxic air pollutants”; — The part of 400–110(4)(h)(xxxvi) that says, “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; 400–110(4)(h)(xi), second sentence; —The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	10/6/16, 81 FR 69385.	Except: 173–400–111(3)(h); — The part of 173–400–111(8)(a)(v) that says, “and 173–460–040,”; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	9/29/16, 81 FR 66823.	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	11/17/15, 80 FR 71695.	Except: 173–400–113(3), second sentence.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	11/17/15, 80 FR 71695.	Except facilities subject to the applicability provisions of WAC 173–400–700.
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	11/17/15, 80 FR 71695.	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	11/17/15, 80 FR 71695.	
173–400–136	Use of Emission Reduction Credits (ERC).	12/29/12	11/17/15, 80 FR 71695.	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	11/17/15, 80 FR 71695.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	12/28/23, 88 FR 89582.	Except: The part of 173–400–171(3)(b) that says, • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC”; 173–400–171(12).
173–400–175	Public Information	2/10/05	11/17/15, 80 FR 71695.	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height & Dispersion Techniques.	2/10/05	11/17/15, 80 FR 71695.	

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—
Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	Except: — The part of 173–400–560(1)(f) that says, “173–460 WAC”.
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–560	General Order of Approval ..	12/29/12	11/17/15, 80 FR 71695.	
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	11/17/15, 80 FR 71695.	
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	10/6/16, 81 FR 69385.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	11/17/15, 80 FR 71695.	
173–400–830	Permitting Requirements	7/1/16	10/6/16, 81 FR 69385.	
173–400–840	Emission Offset Requirements.	7/1/16	10/6/16, 81 FR 69385.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	10/6/16, 81 FR 69385.	
173–400–860	Public Involvement Procedures.	4/1/11	11/17/15, 80 FR 71695.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Northwest Clean Air Agency Regulations				
General Provisions				
100	Name of Agency	8/21/05	6/15/20, 85 FR 36154.	Except provisions outside the scope of CAA section 110. Replaces WAC 173–400–010.
101	Short Title	8/21/05	6/15/20, 85 FR 36154.	
102	Policy	8/21/05	6/15/20, 85 FR 36154.	
121	Orders	9/8/93	2/22/95, 60 FR 9778.	
150	Pollutant Disclosure—Reporting by Air Containment Sources.	9/8/93	2/22/95, 60 FR 9778.	
180	Sampling and Analytical Methods/References.	9/8/93	2/22/95, 60 FR 9778.	
Definitions				
200	Definitions	5/12/19	6/15/20, 85 FR 36154.	Except the definitions Toxic Air Pollutant, Odor, and Odor Source. Generally replaces WAC 173–400–030. However, for definitions not included in section 200, the WAC 173–400–030 definitions in the table below shall apply.

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—
Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Control Procedures				
300	New Source Review	5/12/19	6/15/20, 85 FR 36154.	Except subsections 300.8(C), 300.25, or any provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–036, 173–400–110, 173–400–111, 173–400–113, and 173–400–560, except certain subsections of WAC 173–400–111 and 173–400–113 listed in the table below. Except provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–171 and WAC 173–400–175, except subsection 173–400–171(6)(b). Except subsection 320.3 and provisions related to the regulation of Toxic Air Pollutants or odor. Except subsection 321.3. Except section 324.121.
305	Public Involvement	5/12/19	6/15/20, 85 FR 36154.	
320	Registration Program	5/12/19	6/15/20, 85 FR 36154.	
321	Exemptions from Registration.	5/12/19	6/15/20, 85 FR 36154.	
324	Fees	11/13/94	10/24/95, 60 FR 54439.	
325	Transfer	9/8/93	2/22/95, 60 FR 9778.	
340	Report of Breakdown and Upset.	11/13/94	10/24/95, 60 FR 54439.	
341	Schedule Report of Shut-down or Start-Up.	9/8/93	2/22/95, 60 FR 9778.	
342	Operation and Maintenance	9/8/93	2/22/95, 60 FR 9778.	
360	Testing and Sampling	9/8/93	2/22/95, 60 FR 9778.	
365	Monitoring	9/8/93	2/22/95, 60 FR 9778.	
366	Instrument Calibration	9/8/93	2/22/95, 60 FR 9778.	
Standards				
450	Emission Standards—Forward.	9/8/93	2/22/95, 60 FR 9778.	Except section 452.5.
451	Emission of Air Contaminant- Visual Standards.	11/13/94	10/24/95, 60 FR 54439.	
452	Motor Vehicle Visual Standards.	9/8/93	2/22/95, 60 FR 9778.	
455	Emission of Particulate Matter.	9/8/93	2/22/95, 60 FR 9778.	
458	Incinerators—Wood Waste Burners.	9/8/93	2/22/95, 60 FR 9778.	
460	Weight/Heat Rate Standard—Emission of Sulfur Compounds.	9/8/93	2/22/95, 60 FR 9778.	
462	Emission of Sulfur Compounds.	11/13/94	10/24/95, 60 FR 54439.	
466	Portland Cement Plants	9/8/93	2/22/95, 60 FR 9778.	
Regulated Activities and Prohibitions				
510	Incinerator Burning	9/8/93	2/22/95, 60 FR 9778.	
520	Sulfur Compounds in Fuel ...	9/8/93	2/22/95, 60 FR 9778.	
550	Particulate Matter from Becoming Airborne.	9/8/93	2/22/95, 60 FR 9778.	
560	Storage of Organic Liquids ..	9/8/93	2/22/95, 60 FR 9778.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—
Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
580	Volatile Organic Compound Control (VOC).	11/13/94	10/24/95, 60 FR 54439.	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–020	Applicability	12/29/12	6/15/20, 85 FR 36154.	
173–400–025	Adoption of Federal Rules ...	9/16/18	6/15/20, 85 FR 36154.	Only as it applies to cross references in the WAC.
173–400–030	Definitions	9/16/18	6/15/20, 85 FR 36154.	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104); or any definition included in NWCAA section 200.
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726.	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	6/15/20, 85 FR 36154.	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units.	11/25/18	6/15/20, 85 FR 36154.	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726.	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–091	Voluntary Limits on Emissions.	4/1/11	6/15/20, 85 FR 36154.	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the Federal Register of June 2, 1995.
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	6/15/20, 85 FR 36154.	Only subsections (1)(c), (1)(d), (5)(b), and (7)(b), otherwise NWCAA section 300 applies.
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	6/15/20, 85 FR 36154.	The cross reference to WAC 173–400–113(3) is interpreted to be NWCAA section 300.9(B)(3).
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	6/15/20, 85 FR 36154.	Only subsection (4), otherwise NWCAA section 300 applies.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	6/15/20, 85 FR 36154.	
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	6/15/20, 85 FR 36154.	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	6/15/20, 85 FR 36154.	
173–400–136	Use of Emission Reduction Credits (ERC).	4/1/11	6/15/20, 85 FR 36154.	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	6/15/20, 85 FR 36154.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	6/15/20, 85 FR 36154.	Only subsection (6)(b), otherwise NWCAA section 305 applies.

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—
Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 PM _{2.5} implementation rule (81 FR 58010); nor does NWCAA have an obligation to submit rule revisions to address the 2016 PM _{2.5} implementation rule at this time.
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	6/15/20, 85 FR 36154.	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	6/15/20, 85 FR 36154.	
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	6/15/20, 85 FR 36154.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	6/15/20, 85 FR 36154.	
173–400–830	Permitting Requirements	7/1/16	6/15/20, 85 FR 36154.	
173–400–840	Emission Offset Requirements.	7/1/16	6/15/20, 85 FR 36154.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL)	7/1/16	6/15/20, 85 FR 36154.	
173–400–860	Public Involvement Procedures.	4/1/11	6/15/20, 85 FR 36154.	

TABLE 6—ADDITIONAL REGULATIONS APPROVED FOR THE OLYMPIC REGION CLEAN AIR AGENCY (ORCAA) JURISDICTION

[Applicable in Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Olympic Region Clean Air Agency Regulations				
Rule 6.2 Outdoor Burning				
6.2.3	No Residential or Land Clearing Burning.	2/4/12	10/3/13, 78 FR 61188.	Only as it applies to the cities of Olympia, Lacey, and Tumwater.
6.2.6	Curtailment	3/18/11	10/3/13, 78 FR 61188.	
6.2.7	Recreational Burning	3/18/11	10/3/13, 78 FR 61188.	
Rule 8.1 Wood Heating				
8.1.1	Definitions	5/22/10	10/3/13, 78 FR 61188.	
8.1.2 (b) and (c).	General Emission Standards	5/22/10	10/3/13, 78 FR 61188.	
8.1.3	Prohibited Fuel Types	5/22/10	10/3/13, 78 FR 61188.	
8.1.4	Curtailment	5/22/10	10/3/13, 78 FR 61188.	

TABLE 6—ADDITIONAL REGULATIONS APPROVED FOR THE OLYMPIC REGION CLEAN AIR AGENCY (ORCAA)
JURISDICTION—Continued

[Applicable in Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
8.1.5	Exceptions	5/22/10	10/3/13, 78 FR 61188.	
8.1.7	Sale and Installation of Uncertified Woodstoves.	5/22/10	10/3/13, 78 FR 61188.	
8.1.8	Disposal of Uncertified Woodstoves.	5/22/10	10/3/13, 78 FR 61188.	

Washington Department of Ecology Regulations

Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources

173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726.	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726.	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726.	
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726.	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726.	Except the exception provision in (3).
173–400–060	Emission Standards for General Process Units.	3/22/91	6/2/95, 60 FR 28726.	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726.	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–091	Voluntary Limits on Emissions.	9/20/93	6/2/95, 60 FR 28726.	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726.	
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726.	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726.	Except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726.	Except (5).
173–400–151	Retrofit Requirements for Visibility Protection.	3/22/91	6/2/95, 60 FR 28726.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726..	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726.	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Puget Sound Clean Air Agency Regulations				
Regulation I—Article 1: Policy, Short Title, and Definitions				
1.01	Policy	11/1/99	4/22/20, 85 FR 22355.	Replaces WAC 173–400–010.
1.03	Name of Agency	11/1/99	8/31/04, 69 FR 53007.	
1.05	Short Title	11/1/99	8/31/04, 69 FR 53007.	
1.07	Definitions	12/1/18	4/22/20, 85 FR 22355.	Except the definition “toxic air pollutant (TAP) or toxic air contaminant.”
Regulation I—Article 3: General Provisions				
3.03(f)	General Regulatory Orders	2/1/12	4/22/20, 85 FR 22355.	
3.04	Reasonably Available Control Technology.	7/1/12	4/22/20, 85 FR 22355.	Except 3.04(e). Replaces WAC 173–400–040(1)(c).
3.06	Credible Evidence	11/14/98	8/31/04, 69 FR 53007.	
3.25	Federal Regulation Reference Date.	11/1/19	4/22/20, 85 FR 22355.	Replaces WAC 173–400–025.
Regulation I—Article 5: Registration				
5.03	Applicability of Registration Program.	11/1/16	4/22/20, 85 FR 22355.	Except 5.03(a)(8)(Q) and 5.03(b)(5).
5.05	Registration Requirements	2/1/17	4/22/20, 85 FR 22355.	Except 5.05(b)(1) and (2).
Regulation I—Article 6: New Source Review				
6.01	Components of New Source Review Program.	8/1/18	4/22/20, 85 FR 22355.	Except the parenthetical in 6.01(b) which states “as delegated by agreement with the US Environmental Protection Agency, Region 10.” See subheading below for revised Chapter 173–400 WAC provisions incorporated by reference.
6.03	Notice of Construction	11/1/15	4/22/20, 85 FR 22355.	Except 6.03(b)(10). Section 6.03 replaces WAC 173–400–110, except WAC 173–400–110(1)(c)(i) and (1)(d) which are incorporated by reference.
6.09	Notice of Completion	5/1/04	4/22/20, 85 FR 22355.	
6.10	Work Done without an Approval	9/1/01	4/22/20, 85 FR 22355.	
Regulation I—Article 7: Operating Permits				
7.09	General Reporting Requirements for Operating Permits.	2/1/17	4/22/20, 85 FR 22355.	Excluding toxic air pollutants.
Regulation I—Article 8: Outdoor Burning				
8.04	General Conditions for Outdoor Burning.	1/1/01	8/31/04, 69 FR 53007.	
8.05	Agricultural Burning	1/1/01	8/31/04, 69 FR 53007.	
8.06	Outdoor Burning Ozone Contingency Measure.	1/23/03	8/5/04, 69 FR 47364.	
8.09	Description of King County No-Burn Area.	1/1/01	8/31/04, 69 FR 53007.	
8.10	Description of Pierce County No-Burn Area.	1/1/01	8/31/04, 69 FR 53007.	
8.11	Description of Snohomish County No-Burn Area.	1/1/01	8/31/04, 69 FR 53007.	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—
Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
8.12	Description of Kitsap County No-Burn Area.	11/30/02	8/31/04, 69 FR 53007.	
Regulation I—Article 9: Emission Standards				
9.03	Emission of Air Contaminant: Visual Standard.	5/1/04	4/22/20, 85 FR 22355.	Except 9.03(e). Replaces WAC 173–400–040(2).
9.04	Opacity Standards for Equipment with Continuous Opacity Monitoring Systems.	5/1/04	4/22/20, 85 FR 22355.	Except 9.04(d)(2) and 9.04(f).
9.05	Refuse Burning	1/13/94	6/29/95, 60 FR 33734.	
9.07	Sulfur Dioxide Emission Standard.	5/19/94	4/22/20, 85 FR 22355.	Replaces WAC 173–400–040(7).
9.08	Fuel Oil Standards	5/1/04	4/22/20, 85 FR 22355.	Approved only as it applies to the regulation of criteria pollutants.
9.09	Particulate Matter Emission Standards.	6/1/98	4/22/20, 85 FR 22355.	Replaces WAC 173–400–050(1)&(3) and 173–400–060.
9.11(a)	Emission of Air Contaminant: Detriment to Person or Property.	4/17/99	4/22/20, 85 FR 22355.	Replaces WAC 173–400–040(6).
9.13	Emission of Air Contaminant: Concealment and Masking Restricted.	6/9/88	4/22/20, 85 FR 22355.	Replaces WAC 173–400–040(8).
9.15	Fugitive Dust Control Measures	4/17/99	4/22/20, 85 FR 22355.	Replaces WAC 173–400–040(9)(a).
9.16	Spray-Coating Operations	12/2/10	4/22/20, 85 FR 22355.	
9.18	Crushing Operations	3/2/12	4/22/20, 85 FR 22355.	
9.20	Maintenance of Equipment	6/9/88	8/29/94, 59 FR 44324.	
Regulation I—Article 12: Standards of Performance for Continuous Emission Monitoring Systems				
12.01	Applicability	6/1/98	8/31/04, 69 FR 53007.	
12.03	Continuous Emission Monitoring Systems.	11/1/15	4/22/20, 85 FR 22355.	Replaces WAC 173–400–105(7).
Regulation I—Article 13: Solid Fuel Burning Device Standards				
13.01	Policy and Purpose	12/1/12	5/29/13, 78 FR 32131.	
13.02	Definitions	12/1/12	5/29/13, 78 FR 32131.	
13.03	Opacity Standards	12/1/12	5/29/13, 78 FR 32131.	
13.04	Prohibited Fuel Types	12/1/12	5/29/13, 78 FR 32131.	
13.05	Curtailment	12/1/12	5/29/13, 78 FR 32131.	
13.06	Emission Performance Standards.	12/1/12	5/29/13, 78 FR 32131.	
13.07	Prohibition on Wood Stoves that are not Certified Wood Stoves.	12/1/12	5/29/13, 78 FR 32131.	
Regulation II—Article 1: Purpose, Policy, Short Title, and Definitions				
1.01	Purpose	11/1/99	8/31/04, 69 FR 53007.	
1.02	Policy	11/1/99	8/31/04, 69 FR 53007.	
1.03	Short Title	11/1/99	8/31/04, 69 FR 53007.	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—
Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
1.04	General Definitions	12/11/80	2/28/83, 48 FR 8273.	
1.05	Special Definitions	9/1/03	9/17/13, 78 FR 57073.	
Regulation II—Article 2: Gasoline Marketing Emission Standards				
2.01	Definitions	8/13/99	8/31/04, 69 FR 53007.	
2.03	Petroleum Refineries	7/15/91	8/29/94, 59 FR 44324.	
2.05	Gasoline Loading Terminals	1/13/94	6/29/95, 60 FR 33734.	
2.06	Bulk Gasoline Plants	7/15/91	8/29/94, 59 FR 44324.	
2.07	Gasoline Stations	1/10/00	8/31/04, 69 FR 53007.	
2.08	Gasoline Transport Tanks	8/13/99	8/31/04, 69 FR 53007.	
2.09	Oxygenated Gasoline Carbon Monoxide Contingency Measure and Fee Schedule.	1/23/03	8/5/04, 69 FR 47365.	
2.10	Gasoline Station Ozone Contingency Measure.	1/23/03	8/5/04, 69 FR 47365.	
Regulation II—Article 3: Miscellaneous Volatile Organic Compound Emission Standards				
3.01	Cutback Asphalt Paving	7/15/91	8/29/94, 59 FR 44324.	
3.02	Volatile Organic Compound Storage Tanks.	8/13/99	8/31/04, 69 FR 53007.	
3.03	Can and Paper Coating Operations.	3/17/94	6/29/95, 60 FR 33734.	
3.04	Motor Vehicle and Mobile Equipment Coating Operations.	9/1/03	9/17/13, 78 FR 57073.	
3.05	Graphic Arts Systems	1/13/94	6/29/95, 60 FR 33734.	
3.08	Polyester, Vinylester, Gelcoat, and Resin Operations.	1/13/94	6/29/95, 60 FR 33734.	
3.09	Aerospace Component Coating Operations.	1/13/94	6/29/95, 60 FR 33734.	
Washington Administrative Code, Chapter 173–400 Regulations Incorporated by Reference in Regulation I, Section 6.01				
173–400–030	Definitions	12/29/12	4/22/20, 85 FR 22355.	Except: 173–400–030(91).
173–400–081	Startup and Shutdown	4/1/11	4/22/20, 85 FR 22355.	
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	4/22/20, 85 FR 22355.	173–400–110(1)(c)(i) and 173–400–110(1)(d) only.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	4/22/20, 85 FR 22355.	Except: 173–400–111(3)(h); —The part of 173–400–111(8)(a)(v) that says, “and 173–460–040,”; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas.	12/29/12	4/22/20, 85 FR 22355.	
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	12/29/12	4/22/20, 85 FR 22355.	Except: 173–400–113(3), second sentence.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	4/22/20, 85 FR 22355.	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–171	Public Notice and Opportunity for Public Comment.	7/1/16	4/22/20, 85 FR 22355.	Except: —The part of 173–400–171(3)(b) that says, “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC”; 173–400–171(12).
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	4/22/20, 85 FR 22355.	
173–400–560	General Order of Approval	12/29/12	4/22/20, 85 FR 22355.	Except: —The part of 173–400–560(1)(f) that says, “173–460 WAC”.
173–400–800	Major Stationary Source and Major Modification in a Non-attainment Area.	4/1/11	4/22/20, 85 FR 22355.	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 PM _{2.5} implementation rule (81 FR 58010); nor does PSCAA have an obligation to submit rule revisions to address the 2016 PM _{2.5} implementation rule at this time.
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	4/22/20, 85 FR 22355.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	4/22/20, 85 FR 22355.	
173–400–830	Permitting Requirements	7/1/16	4/22/20, 85 FR 22355.	
173–400–840	Emission Offset Requirements ...	7/1/16	4/22/20, 85 FR 22355.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	4/22/20, 85 FR 22355.	
173–400–860	Public Involvement Procedures ..	4/1/11	4/22/20, 85 FR 22355.	

Washington Department of Ecology Regulations

Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources

173–400–020	Applicability	12/29/12	4/22/20, 85 FR 22355.	
173–400–040	General Standards for Maximum Emissions.	9/16/18	4/22/20, 85 FR 22355.	173–400–040(1)(a) & (b), 173–400–040(4); and 173–400–040(9)(b) only.
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726.	Except (7).
173–400–091	Voluntary Limits on Emissions ...	4/1/11	4/22/20, 85 FR 22355.	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–105	Records, Monitoring and Reporting.	11/25/18	4/22/20, 85 FR 22355.	Except: 173–400–105(7).
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	4/22/20, 85 FR 22355.	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	4/22/20, 85 FR 22355.	
173–400–136	Use of Emission Reduction Credits (ERC).	12/29/12	4/22/20, 85 FR 22355.	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	4/22/20, 85 FR 22355.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–175	Public Information	2/10/05	4/22/20, 85 FR 22355.	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	

TABLE 7—ADDITIONAL REGULATIONS APPROVED FOR THE PUGET SOUND CLEAN AIR AGENCY (PSCAA) JURISDICTION—Continued

[Applicable in King, Kitsap, Pierce and Snohomish counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation); any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Southwest Clean Air Agency Regulations				
General Regulations for Air Pollution Sources				
400–010	Policy and Purpose	3/18/01	4/10/17, 82 FR 17136.	
400–020	Applicability	10/9/16	4/10/17, 82 FR 17136.	
400–025	Adoption of Federal Rules	9/10/21	9/29/23, 88 FR 67097.	
400–030	Definitions	9/10/21	9/29/23, 88 FR 67097.	Except: 400–030(21) and (130).
400–036	Portable Sources from Other Washington Jurisdictions.	9/10/21	9/29/23, 88 FR 67097.	
400–040(1)(a)	General Standards for Maximum Emissions.	9/21/95	2/26/97, 62 FR 8624.	
400–040	General Standards for Maximum Emissions.	10/9/16	4/10/17, 82 FR 17136.	Except: 400–040(1)(a), (c) and (d); 400–040(2); and 400–040(4).
400–050	Emission Standards for Combustion and Incineration Units.	9/10/21	9/29/23, 88 FR 67097.	Except: 400–050(3); 400–050(5); 400–050(6); and 400–050(7).
400–060	Emission Standards for General Process Units.	3/21/20	9/29/23, 88 FR 67097.	
400–070(2)(a)	Emission Standards for Certain Source Categories.	9/21/95	2/26/97, 62 FR 8624.	
400–070	General Requirements for Certain Source Categories.	10/9/16	4/10/17, 82 FR 17136.	Except: 400–070(2)(a); 400–070(3)(b); 400–070(5); 400–070(6); 400–070(7); 400–070(8)(c); 400–070(9); 400–070(10); 400–070(11); 400–070(12); 400–070(14); and 400–070(15)(c).
400–072	Small Unit Notification for Selected Source Categories.	.....	9/29/23, 88 FR 67097.	Except: 400–072(5)(a)(ii)(B); 400–072(5)(d)(ii)(B); 400–072(5)(d)(iii)(A); 400–072(5)(d)(iii)(B); all reporting requirements related to toxic air pollutants; and 400–072(5)(b), which EPA previously approved with a state-effective date of October 9, 2016.
400–072 (5)(b)	Small Unit Notification for Selected Source Categories.	10/9/16	4/10/17, 82 FR 17136.	
400–074	Gasoline Transport Tanker Registration.	6/18/17	9/29/23, 88 FR 67097.	Except: 400–074(2).
400–081	Startup and Shutdown	10/9/16	4/10/17, 82 FR 17136.	
400–091	Voluntary Limits on Emissions ...	9/10/21	9/29/23, 88 FR 67097.	
400–105	Records, Monitoring and Reporting.	9/10/21	9/29/23, 88 FR 67097.	Except: reporting requirements related to toxic air pollutants
400–106	Emission Testing and Monitoring at Air Contaminant Sources.	9/10/21	9/29/23, 88 FR 67097.	Except: 400–106(1)(d) through (g); and 400–106(2).
400–107	Excess Emissions	9/21/95	2/26/97, 62 FR 8624.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—
Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
400–109	Air Discharge Permit Applications.	9/10/21	9/29/23, 88 FR 67097.	Except: The toxic air pollutant emissions thresholds contained in 400–109(3)(d); 400–109(3)(e)(ii); and 400–109(4).
400–110	Application Review Process for Stationary Sources (New Source Review).	9/10/21	9/29/23, 88 FR 67097.	Except: 400–110(1)(d).
400–111	Requirements for New Sources in a Maintenance Plan Area.	9/10/21	9/29/23, 88 FR 67097.	Except: 400–111(7).
400–112	Requirements for New Sources in Nonattainment Areas.	9/10/21	9/29/23, 88 FR 67097.	Except: 400–112(6).
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	9/10/21	9/29/23, 88 FR 67097.	Except: 400–113(5).
400–114	Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.	9/10/21	9/29/23, 88 FR 67097.	
400–116	Maintenance of Equipment	11/9/03	4/10/17, 82 FR 17136.	
400–130	Use of Emission Reduction Credits.	10/9/16	4/10/17, 82 FR 17136.	
400–131	Deposit of Emission Reduction Credits Into Bank.	10/9/16	4/10/17, 82 FR 17136.	
400–136	Maintenance of Emission Reduction Credits in Bank.	9/10/21	9/29/23, 88 FR 67097.	
400–151	Retrofit Requirements for Visibility Protection.	9/10/21	9/29/23, 88 FR 67097.	
400–161	Compliance Schedules	3/18/01	4/10/17, 82 FR 17136.	
400–171	Public Involvement	9/10/21	9/29/23, 88 FR 67097.	Except: 400–171(2)(a)(xii).
400–190	Requirements for Nonattainment Areas.	10/9/16	4/10/17, 82 FR 17136.	
400–200	Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques.	10/9/16	4/10/17, 82 FR 17136.	
400–205	Adjustment for Atmospheric Conditions.	3/18/01	4/10/17, 82 FR 17136.	
400–210	Emission Requirements of Prior Jurisdictions.	3/18/01	4/10/17, 82 FR 17136.	
400–260	Conflict of Interest	9/10/21	9/29/23, 88 FR 67097.	
400–800	Major Stationary Source and Major Modification in a Non-attainment Area.	10/9/16	4/10/17, 82 FR 17136.	
400–810	Major Stationary Source and Major Modification Definitions.	9/10/21	9/29/23, 88 FR 67097.	
400–820	Determining If a New Stationary Source or Modification to a Stationary Source is Subject to These Requirements.	10/9/16	4/10/17, 82 FR 17136.	
400–830	Permitting Requirements	10/9/16	4/10/17, 82 FR 17136.	
400–840	Emission Offset Requirements ...	10/9/16	4/10/17, 82 FR 17136.	
400–850	Actual Emissions—Plantwide Applicability Limitation (PAL).	3/21/20	9/29/23, 88 FR 67097.	
400–860	Public Involvement Procedures ..	10/9/16	4/10/17, 82 FR 17136.	
Appendix A	SWCAA Method 9 Visual Opacity Determination Method.	3/21/20	9/29/23, 88 FR 67097.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—
Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Appendix B	Description of Vancouver Ozone and Carbon Monoxide Maintenance Area Boundary.	10/9/16	4/10/17, 82 FR 17136.	
Emission Standards and Controls for Sources Emitting Volatile Organic Compounds				
490–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204.	
490–020	Definitions	11/21/96	5/19/97, 62 FR 27204.	
490–025	General Applicability	11/21/96	5/19/97, 62 FR 27204.	
490–030	Registration and Reporting	11/21/96	5/19/97, 62 FR 27204.	
490–040	Requirements	11/21/96	5/19/97, 62 FR 27204.	
490–080	Exceptions & Alternative Methods.	11/21/96	5/19/97, 62 FR 27204.	
490–090	New Source Review	11/21/96	5/19/97, 62 FR 27204.	
490–200	Petroleum Refinery Equipment Leaks.	11/21/96	5/19/97, 62 FR 27204.	
490–201	Petroleum Liquid Storage in External Floating Roof Tanks.	11/21/96	5/19/97, 62 FR 27204.	
490–202	Leaks from Gasoline Transport Tanks and Vapor Collection Systems.	11/21/96	5/19/97, 62 FR 27204.	
490–203	Perchloroethylene Dry Cleaning Systems.	11/21/96	5/19/97, 62 FR 27204.	
490–204	Graphic Arts Systems	11/21/96	5/19/97, 62 FR 27204.	
490–205	Surface Coating of Miscellaneous Metal Parts and Products.	11/21/96	5/19/97, 62 FR 27204.	
490–207	Surface Coating of Flatwood Paneling.	11/21/96	5/19/97, 62 FR 27204.	
490–208	Aerospace Assembly & Component Coating Operations.	11/21/96	5/19/97, 62 FR 27204.	
Emissions Standards and Controls for Sources Emitting Gasoline Vapors				
491–010	Policy and Purpose	3/18/01	9/28/23, 88 FR 66692.	
491–015	Applicability	3/18/01	9/28/23, 88 FR 66692.	
491–020	Definitions	2/7/20	9/28/23, 88 FR 66692.	
491–030	Registration	2/7/20	9/28/23, 88 FR 66692.	
491–040	Gasoline Vapor Control Requirements.	2/7/20	9/28/23, 88 FR 66692.	
491–050	Failures, Certification, Testing & Recordkeeping.	2/7/20	9/28/23, 88 FR 66692.	
491–060	Severability	3/18/01	9/28/23, 88 FR 66692.	
Oxygenated Fuels				
492–010	Policy and Purpose	11/21/96	4/30/97, 62 FR 23363.	
492–020	Applicability	11/21/96	4/30/97, 62 FR 23363.	
492–030	Definitions	11/21/96	4/30/97, 62 FR 23363.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—
Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
492–040	Compliance Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–050	Registration Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–060	Labeling Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–070	Control Area and Control Period	11/21/96	4/30/97, 62 FR 23363.	
492–080	Enforcement and Compliance	11/21/96	4/30/97, 62 FR 23363.	
492–090	Unplanned Conditions	11/21/96	4/30/97, 62 FR 23363.	
492–100	Severability	11/21/96	4/30/97, 62 FR 23363.	

VOC Area Source Rules

493–100	Consumer Products (Reserved)	5/26/96	5/19/97, 62 FR 27204.	
493–200–010	Applicability	5/26/96	5/19/97, 62 FR 27204.	
493–200–020	Definitions	5/26/96	5/19/97, 62 FR 27204.	
493–200–030	Spray Paint Standards & Exemptions.	5/26/96	5/19/97, 62 FR 27204.	
493–200–040	Requirements for Manufacture, Sale and Use of Spray Paint.	5/26/96	5/19/97, 62 FR 27204.	
493–200–050	Recordkeeping & Reporting Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–200–060	Inspection and Testing Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–300–010	Applicability	5/26/96	5/19/97, 62 FR 27204.	
493–300–020	Definitions	5/26/96	5/19/97, 62 FR 27204.	
493–300–030	Standards	5/26/96	5/19/97, 62 FR 27204.	
493–300–040	Requirements for Manufacture, Sale and Use of Architectural Coatings.	5/26/96	5/19/97, 62 FR 27204.	
493–300–050	Recordkeeping & Reporting Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–300–060	Inspection and Testing Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–400–010	Applicability	5/26/96	5/19/97, 62 FR 27204.	
493–400–020	Definitions	5/26/96	5/19/97, 62 FR 27204.	
493–400–030	Coating Standards & Exemptions.	5/26/96	5/19/97, 62 FR 27204.	
493–400–040	Requirements for Manufacture & Sale of Coating.	5/26/96	5/19/97, 62 FR 27204.	
493–400–050	Requirements for Motor Vehicle Refinishing in Vancouver AQMA.	5/26/96	5/19/97, 62 FR 27204.	
493–400–060	Recordkeeping and Reporting Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–400–070	Inspection & Testing Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–500–010	Applicability	5/26/96	5/19/97, 62 FR 27204.	
493–500–020	Compliance Extensions	5/26/96	5/19/97, 62 FR 27204.	
493–500–030	Exemption from Disclosure to the Public.	5/26/96	5/19/97, 62 FR 27204.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
493–500–040	Future Review	5/26/96	5/19/97, 62 FR 27204.	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	4/10/17, 82 FR 17136.	For permits issued under the applicability provisions of WAC 173–400–800.
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	4/10/17, 82 FR 17136.	
173–400–560	General Order of Approval	12/29/12	4/10/17, 82 FR 17136.	Except: —The part of 173–400–560(1)(f) that says, “173–460 WAC”.

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Spokane Regional Clean Air Agency Regulation I				
Article I—Policy, Short Title, and Definitions				
1.01	Policy	9/1/20	5/10/21, 86 FR 24718.	Subsections (A) and (B) replace WAC 173–400–010.
1.02	Name of Agency	9/1/20	5/10/21, 86 FR 24718.	
1.03	Short Title	9/1/20	5/10/21, 86 FR 24718.	
1.04	General Definitions	9/1/20	5/10/21, 86 FR 24718.	Except subsections (17), (41), (52), (60), (74), (101), (112), (119), and (122). Section 1.04 replaces WAC 173–400–030 except the WAC 173–400–030 definitions list below.
1.05	Acronym Index	9/1/20	5/10/21, 86 FR 24718.	
Article II—General Provisions				
2.08	Falsification of Statements or Documents, and Treatment of Documents.	9/1/20	5/10/21, 86 FR 24718.	Subsections (E) and (F) only. Subsection (E) replaces WAC 173–400–105(6). Subsection (F) replaces WAC 173–400–105(8).
2.09	Source Tests	9/1/20	5/10/21, 86 FR 24718.	Section 2.09 replaces WAC 173–400–105(4).
2.13	Federal and State Regulation Reference Date.	9/1/20	5/10/21, 86 FR 24718.	Subsection (A) replaces WAC 173–400–025.
2.14	Washington Administrative Codes (WACS).	9/1/20	5/10/21, 86 FR 24718.	Subsection (A)(1) only, and only with respect to those revised Chapter 173–400 WAC provisions that are identified for incorporation by reference in the table below.
Article IV—Registration				
4.03	Registration Exemptions	9/1/20	5/10/21, 86 FR 24718.	Subsections (B) and (C) only.
4.04	Stationary Sources and Source Categories Subject to Registration.	9/1/20	5/10/21, 86 FR 24718.	Except subsections (A)(3)(u), (A)(3)(v), (A)(5)(b), (A)(5)(e)(9), or any other provision as it relates to the regulation of toxic air pollutants or odors.

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
JURISDICTION—Continued

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
4.05	Closure of a Stationary Source or Emissions Unit(s).	9/1/20	5/10/21, 86 FR 24718.	
Article V—New Source Review for Stationary Sources and Portable Sources				
5.02	New Source Review—Applicability and when Required.	9/1/20	5/10/21, 86 FR 24718.	Except subsections (C)(5) and (I). Section 5.02 Replaces WAC 173–400–110. Subsection (F) replaces WAC 173–400–111(2).
5.03	NOC and PSP Fees	9/1/20	5/10/21, 86 FR 24718.	
5.04	Information Required	9/1/20	5/10/21, 86 FR 24718.	Except subsection (A)(8). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.05	Public Involvement	9/1/20	5/10/21, 86 FR 24718.	Except subsection (C)(15). Section 5.05 replaces WAC 173–400–171.
5.06	Application Completeness Determination.	9/1/20	5/10/21, 86 FR 24718.	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.07	Processing NOC Applications for Stationary Sources.	9/1/20	5/10/21, 86 FR 24718.	Except subsections (A)(1)(g) and (B). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111, and subsection 5.07(A)(7) replaces WAC 173–400–110(2)(a).
5.08	Portable Sources	9/1/20	5/10/21, 86 FR 24718.	Except subsection (A)(6). Section 5.08 replaces WAC 173–400–036.
5.09	Operating Requirements for Order of Approval and Permission to Operate.	9/1/20	5/10/21, 86 FR 24718.	Except subsection (C).
5.10	Changes to an Order of Approval or Permission to Operate.	9/1/20	5/10/21, 86 FR 24718.	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.11	Notice of Startup of a Stationary Source or a Portable Source.	9/1/20	5/10/21, 86 FR 24718.	
5.12	Work Done Without an Approval	9/1/20	5/10/21, 86 FR 24718.	
5.13	Order of Approval Construction Time Limits.	9/1/20	5/10/21, 86 FR 24718.	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.14	Appeals	9/1/20	5/10/21, 86 FR 24718.	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.15	Obligation to Comply	9/1/20	5/10/21, 86 FR 24718.	
Article VI—Emissions Prohibited				
6.04	Emission of Air Contaminant: Detriment to Person or Property.	9/1/20	5/10/21, 86 FR 24718.	Subsections (A), (B), (C), and (H) only and excepting provisions in RCW 70.94.640 (incorporated by reference) that relate to odor. Subsection (C) replaces WAC 173–400–040(6).
6.05	Particulate Matter & Preventing Particulate Matter from Becoming Airborne.	9/1/20	5/10/21, 86 FR 24718.	Except subsection (A). Section 6.05 supplements but does not replace WAC 173–400–040(4) and (9).
6.07	Emission of Air Contaminant Concealment and Masking Restricted.	9/1/20	5/10/21, 86 FR 24718.	Section 6.07 replaces WAC 173–400–040(8).
6.14	Standards for Control of Particulate Matter on Paved Surfaces.	9/1/20	5/10/21, 86 FR 24718.	Section 6.14 supplements but does not replace WAC 173–400–040(9).
6.15	Standards for Control of Particulate Matter on Unpaved Roads.	9/1/20	5/10/21, 86 FR 24718.	Section 6.15 supplements but does not replace WAC 173–400–040(9).
Article VIII—Solid Fuel Burning Device Standards				
8.01	Purpose	9/2/14	9/28/15, 80 FR 58216.	

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
JURISDICTION—Continued

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
8.02	Applicability	9/2/14	9/28/15, 80 FR 58216.	Except the incorporation by reference of WAC 173–433–130, 173–433–170, and 173–433–200.
8.03	Definitions	9/2/14	9/28/15, 80 FR 58216.	
8.04	Emission Performance Standards.	9/2/14	9/28/15, 80 FR 58216.	
8.05	Opacity Standards	9/2/14	9/28/15, 80 FR 58216.	
8.06	Prohibited Fuel Types	9/2/14	9/28/15, 80 FR 58216.	
8.07	Curtailment	9/2/14	9/28/15, 80 FR 58216.	
8.08	Exemptions	9/2/14	9/28/15, 80 FR 58216.	
8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	9/2/14	9/28/15, 80 FR 58216.	
8.10	Restrictions on Installation of Solid Fuel Burning Devices.	9/2/14	9/28/15, 80 FR 58216.	

Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources: Adopted by Reference in SRCAA Regulation I, Subsection 2.14(A)(1)

173–400–020	Applicability	12/29/12	5/10/21, 86 FR 24718.	Only the following definitions: Adverse Impact on Visibility; Capacity Factor; Class I Area; Dispersion Technique; Emission Threshold; Excess Stack Height; Existing Stationary Facility; Federal Class I Area; Federal Land Manager; Fossil Fuel-fired Steam Generator; General Process Unit; Greenhouse Gases; Industrial Furnace; Mandatory Class I Federal Area; Natural Conditions; Projected Width; Reasonably Attributable; Sulfuric Acid Plant; and Wood Waste.
173–400–030(24)	Definitions	3/22/91	6/2/95, 60 FR 28726.	
173–400–030	Definitions	9/16/18	5/10/21, 86 FR 24718.	
173–400–040(1)(a) & (b)	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726.	Except: 173–400–040(2); 173–400–040(3); 173–400–040(5); 173–400–040(6); 173–400–040(8).
173–400–040	General Standards for Maximum Emissions.	9/16/18	5/10/21, 86 FR 24718.	
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	5/10/21, 86 FR 24718.	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units.	11/25/18	5/10/21, 86 FR 24718.	Except (7).
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726.	
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	9/20/93 version continues to be approved under the authority of CAA section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–091	Voluntary Limits on Emissions ...	4/1/11	5/10/21, 86 FR 24718.	
173–400–105	Records, Monitoring and Reporting.	11/25/18	5/10/21, 86 FR 24718.	Except: 173–400–105(3); 173–400–105(4); 173–400–105(6); 173–400–105(8).
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	Except (8).
173–400–112	Requirements for New Sources in Nonattainment Areas.	12/29/12	5/10/21, 86 FR 24718.	
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	12/29/12	5/10/21, 86 FR 24718.	Except: 173–400–113(3), second sentence.

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
JURISDICTION—Continued

[Applicable in Spokane county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	5/10/21, 86 FR 24718.	Except: The part of 173–400–560(1)(f) that says, “173–460 WAC”. EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 PM _{2.5} implementation rule (81 FR 58010); nor does SRCAA have an obligation to submit rule revisions to address the 2016 PM _{2.5} implementation rule at this time.
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	5/10/21, 86 FR 24718.	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	5/10/21, 86 FR 24718.	
173–400–136	Use of Emission Reduction Credits (ERC).	12/29/12	5/10/21, 86 FR 24718.	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	5/10/21, 86 FR 24718.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–175	Public Information	2/10/05	5/10/21, 86 FR 24718.	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	5/10/21, 86 FR 24718.	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–560	General Order of Approval	12/29/12	5/10/21, 86 FR 24718.	
173–400–800	Major Stationary Source and Major Modification in a Non-attainment Area.	4/1/11	5/10/21, 86 FR 24718.	
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	5/10/21, 86 FR 24718.	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	5/10/21, 86 FR 24718.	
173–400–830	Permitting Requirements	7/1/16	5/10/21, 86 FR 24718.	
173–400–840	Emission Offset Requirements ...	7/1/16	5/10/21, 86 FR 24718.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	5/10/21, 86 FR 24718.	
173–400–860	Public Involvement Procedures ..	4/1/11	5/10/21, 86 FR 24718.	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA)
JURISDICTION

[Applicable in Yakima county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Yakima Regional Clean Air Agency Regulations				
Article 1—General Administrative Provisions				
1.01	Name of Agency	11/9/20	7/11/22, 87 FR 41064.	Except sub-section H. Replaces WAC 173–400–010.
1.02	Short Title	11/9/20	7/11/22, 87 FR 41064.	
1.03	Policy	11/9/20	7/11/22, 87 FR 41064.	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA)
JURISDICTION—Continued

[Applicable in Yakima county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
1.04	Applicability	11/9/20	7/11/22, 87 FR 41064.	Replaces WAC 173–400–175.
1.06	Records	11/9/20	7/11/22, 87 FR 41064.	
1.07	General Provisions	11/9/20	7/11/22, 87 FR 41064.	
Article 2—General Regulations				
2.04	Public Participation in Permitting	11/9/20	7/11/22, 87 FR 41064.	
Article 3—Rules				
3.01	General Rules	11/9/20	7/11/22, 87 FR 41064.	Except sub-section D.
3.03	Outdoor and Agricultural Burning	11/9/20	9/28/23, 88 FR 66690.	Except subsection 3.03(C)(2)(g), 3.03(E)(2)(a), 3.03(E)(2)(c), 3.03(E)(3)(d), 3.03(K); and the following provisions in General Rule Permit No.: 3.03–1(E)(2)(b), 3.03–1(E)(2)(d), 3.03–1(E)(2)(e), 3.03–1(G), 3.03–2(E)(2)(b), 3.03–2(G), 3.03–3(E)(2)(b), 3.03–3(G), 3.03–4(E)(2)(c), 3.03–4(G), 3.03–5(E)(2)(d), and 3.03–5(G).
3.04	Wood Heaters	11/9/20	1/24/22, 87 FR 3435.	
3.05	Burn Bans	11/9/20	1/24/22, 87 FR 3435.	
3.08	Specific Dust Controls	11/9/20	7/11/22, 87 FR 41064.	
Article 4—Permits and Registration				
4.01	Registration Program	11/9/20	7/11/22, 87 FR 41064.	Excluding any provisions related to the regulation of Toxic Air Pollutants.
Appendices				
Appendix A	Definitions of Words and Phrases	11/9/20	7/11/22, 87 FR 41064.	
Appendix B	Definitions of Acronyms and Abbreviations.	11/9/20	7/11/22, 87 FR 41064.	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–020	Applicability	12/29/12	7/11/22, 87 FR 41064.	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104).
173–400–025	Adoption of Federal Rules	9/16/18	7/11/22, 87 FR 41064.	
173–400–030(24)	Definitions	3/22/91	6/2/95, 60 FR 28726.	
173–400–030	Definitions	9/16/18	7/11/22, 87 FR 41064.	
173–400–036	Relocation of Portable Sources	12/29/12	7/11/22, 87 FR 41064.	Subsections 173–400–040(1)(a)&(b)(state effective 3/22/91) were subsequently revised and renumbered to sub-section 173–400–040(2) which will be addressed in a separate action.
173–400–040(1)(a) & (b).	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–040	General Standards for Maximum Emissions.	9/16/18	7/11/22, 87 FR 41064.	
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	7/11/22, 87 FR 41064.	
173–400–060	Emission Standards for General Process Units.	11/25/18	7/11/22, 87 FR 41064.	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726.	
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–105	Records, Monitoring and Reporting	11/25/18	7/11/22, 87 FR 41064.	Except 173–400–105(6) & (8).

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA)
JURISDICTION—Continued

[Applicable in Yakima county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	7/11/22, 87 FR 41064.	Except: 173–400–110(1)(c)(iii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, • “not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC.”; The part of 400–110 (4)(e)(iii) that says, • “where toxic air pollutants as defined in chapter 173–460 WAC are not emitted”; The part of 400–110(4)(f)(i) that says, • “that are not toxic air pollutants listed in chapter 173–460 WAC”; The part of 400–110 (4)(h)(xviii) that says, • “, to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted”; The part of 400–110 (4)(h)(xxxiii) that says, • “where no toxic air pollutants as listed under chapter 173–460 WAC are emitted”; The part of 400–110(4)(h)(xxxiv) that says, • “, or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; The part of 400–110(4)(h)(xxxv) that says, • “or ≤1% (by weight) toxic air pollutants”; The part of 400–110(4)(h)(xxxvi) that says, • “or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; 400–110(4)(h)(xl), second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173–400–111	Processing Notice of Construction Applications for Sources, Stationary.	7/1/16	7/11/22, 87 FR 41064.	Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • “and 173–460–040,”; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	7/11/22, 87 FR 41064.	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	7/11/22, 87 FR 41064.	Except: 173–400–113(3), second sentence.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	7/11/22, 87 FR 41064.	
173–400–118	Designation of Class I, II, and III Areas	12/29/12	7/11/22, 87 FR 41064.	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	7/11/22, 87 FR 41064.	
173–400–136	Use of Emission Reduction Credits (ERC).	12/29/12	7/11/22, 87 FR 41064.	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	7/11/22, 87 FR 41064.	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	7/11/22, 87 FR 41064.	Except: The part of 173–400–171(3)(b) that says, • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC”; 173–400–171(3)(o); 173–400–171(12).
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	7/11/22, 87 FR 41064.	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–560	General Order of Approval	12/29/12	7/11/22, 87 FR 41064.	Except: The part of 173–400–560(1)(f) that says, “173–460 WAC”.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	7/11/22, 87 FR 41064.	EPA did not review WAC 173–400–800 through 860 for consistency with the 2016 PM _{2.5} implementation rule (see the Federal Register of August 24, 2016); nor does YRCAA have an obligation to submit rule revisions to address the 2016 PM _{2.5} implementation rule at this time
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	7/11/22, 87 FR 41064.	

TABLE 10—ADDITIONAL REGULATIONS APPROVED FOR THE YAKIMA REGIONAL CLEAN AIR AGENCY (YRCAA)
JURISDICTION—Continued

[Applicable in Yakima county, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	7/11/22, 87 FR 41064.	
173–400–830	Permitting Requirements	7/1/16	7/11/22, 87 FR 41064.	
173–400–840	Emission Offset Requirements	7/1/16	7/11/22, 87 FR 41064.	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	7/11/22, 87 FR 41064.	
173–400–860	Public Involvement Procedures	4/1/11	7/11/22, 87 FR 41064.	

(d) EPA-approved state source-specific requirements.

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS ¹

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
Boise Cascade, Wallula Mill.	1614–AQ04	9/15/04	5/2/05, 70 FR 22597.	Following conditions only: No. 1 (Approval Conditions) & Appendix A.
Emission Limits for Significant Stack Sources.	various orders	various dates	10/26/95, 60 FR 54812.	
Honam, Inc., Ideal Division (now known as LaFarge North America, Inc.).	#5183	2/9/94	8/31/04, 69 FR 53007.	
Saint Gobain Containers LLC.	#8244	9/9/99	8/31/04, 69 FR 53007.	
Kaiser Order—Alternate Opacity Limit.	91–01	12/12/91	1/27/97, 62 FR 3800.	
Kaiser Order—Limiting Potential-to-Emit.	96–03	10/4/00	7/1/05, 70 FR 38029.	
Kaiser Order—Limiting Potential-to-Emit.	96–04	4/24/96	1/27/97, 62 FR 3800.	
Kaiser Order—Limiting Potential-to-Emit.	96–05	10/4/00	7/1/05, 70 FR 38029.	
Kaiser Order—Limiting Potential-to-Emit.	96–06	10/19/00	7/1/05, 70 FR 38029.	
RACT Limits for Centralia Power Plant.	#97–2057R1	2/26/98	6/11/03, 68 FR 34821.	
BP Cherry Point Refinery.	Administrative Order No. 7836, Revision 2..	5/13/15	2/16/16, 81 FR 7710.	The following conditions: 1.1, 1.1.1, 1.2, 1.2.1, 1.2.2, 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.2, 2.2.1, 2.2.2, 2.3, 2.3.1, 2.3.2, 2.4, 2.4.1, 2.4.2, 2.4.2.1, 2.5, 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.2, 2.5.3, 2.5.4, 2.6, 2.6.1, 2.6.2, 2.6.3, 2.7, 2.7.1, 2.7.2, 2.7.3, 2.7.4, 2.8, 2.8.1, 2.8.2, 2.8.3, 2.8.4, 2.8.5, 2.8.6, 3, 3.1, 3.1.1, 3.1.2, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, 4, 4.1, 4.1.1, 4.1.1.1, 4.1.1.2, 4.1.1.3, 4.1.1.4, 5, 5.1, 5.2, 6, 6.1, 6.2, 6.3, 7, 9.
Alcoa Intalco Works.	Administrative Order No. 7837, Revision 1.	11/15/10	6/11/14, 79 FR 33438.	The following conditions: 1, 2., 2.1, 3., 4., 4.1, Attachment A conditions: A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14.
Tesoro Refining and Marketing Company.	Administrative Order 7838	7/7/10	6/11/14, 79 FR 33438.	The following conditions: 1., 1.1, 1.1.1, 1.1.2, 1.2, 1.3, 1.4, 1.5, 1.5.1, 1.5.1.1, 1.5.1.2, 1.5.1.3, 1.5.2, 1.5.3, 1.5.4, 1.5.5, 1.5.6, 2., 2.1, 2.1.1, 2.1.1.1, 2.1.2, 2.1.3, 2.2, 2.2.1, 3, 3.1, 3.1.1, 3.1.2, 3.1.2.1, 3.1.2.2, 3.1.2.3, 3.2, 3.2.1, 3.2.1.1, 3.2.1.2, 3.2.1.3, 3.2.1.4, 3.2.1.4.1, 3.2.1.4.2, 3.2.1.4.3, 3.2.1.4.4, 3.2.1.4.5, 3.3, 3.3.1, 3.4, 3.4.1, 3.4.2, 4., 4.1, 5., 5.1, 6., 6.1, 6.1.1, 6.1.2, 6.1.3, 6.1.4, 7., 7.1, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.2, 7.2.1, 7.2.2, 7.2.3, 7.2.4, 8, 8.1, 8.1.1, 8.1.2, 8.2, 8.2.1, 8.2.2, 8.2.3, 8.3, 8.3.1, 8.3.2, 9., 9.1, 9.1.1, 9.1.2, 9.2, 9.2.1, 9.39.3.1, 9.3.2, 9.3.3, 9.4, 9.4.1, 9.4.2, 9.4.3, 9.4.5, 9.4.6, 9.5, 10, 11, 12, 13, 13.1, 13.2, 13.3, 13.4, 13.5, 13.6.

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS ¹—Continued

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
Port Townsend Paper Corporation.	Administrative Order No. 7839, Revision 1.	10/20/10	6/11/14, 79 FR 33438.	The following Conditions: 1, 1.1, 1.2, 1.3, 2, 2.1, 3, 3.1, 4.
Lafarge North America, Inc. Seattle, Wa..	Administrative Revised Order No. 7841.	7/28/10	6/11/14, 79 FR 33438.	The following Conditions: 1, 1.1, 1.2, 2, 2.1, 2.1.1, 2.1.2, 2.2, 2.3, 3, 3.1, 3.1.1, 3.1.2, 3.1.3, 3.2, 3.3, 4, 4.1, 5, 5.1, 5.1.1, 5.1.2, 5.2, 5.3, 6, 6.1, 7, 7.1, 7.2, 7.3, 7.4, 7.5, 8, 8.1, 8.2, 8.3, 8.4, 8.5, 9, 10, 11, 12.
Weyerhaeuser Corporation, Longview, Wa.	Administrative Order No. 7840	7/7/10	6/11/14, 79 FR 33438.	The following Conditions: 1, 1.1, 1.1.1, 1.1.2, 1.1.3, 1.2, 1.2.1, 1.2.2, 1.2.3, 1.3, 1.3.1, 1.4, 2, 2.1, 3, 3.1, 4, 4.1.
Tyson Fresh Meats, Inc.	13AQ-E526	4/16/14	5/1/20, 85 FR 25303.	Except: 1. Decontamination Cabinets; 2. Meat Cutting/Packing; 6. Wastewater Floatation; 8. Utility Equipment; 10. Other; References to “WAC 173–460–040” in Determinations”; The portion of Approval Condition 2.a which states, “and consumption of no more than 128 million cubic feet/of natural gas per year. Natural gas consumption records for the dryer shall be maintained for the most recent 24 month period and be available to Ecology for inspection. An increase in natural gas consumption that exceeds the above level may require a Notice of Construction.”; Approval Condition 3; Approval Condition 4; Approval Condition 5; Approval Condition 6.e; Approval Condition 9.a.ii; Approval Condition 9.a.iv; Approval Condition 9.a.v; Approval Condition 9.a.vi; Approval Condition 10.a.ii; Approval Condition 10.b; Approval Condition 11.a; Approval Condition 11.b; Approval Condition 11.e; Approval Condition 12; Approval Condition 15; The section titled “Your Right to Appeal”; and The section titled “Address and Location Information.” Condition P.1 only.
Packaging Corporation of America (Wallula Mill).	0003697	4/1/18	5/1/20, 85 FR 25303.	
Simplot Feeders Limited Partnership.	Fugitive Dust Control Plan	3/1/18	5/1/20, 85 FR 25303.	
TransAlta Centralia BART—Second Revision.	#6426	7/29/20	5/7/21, 86 FR 24502.	Except the undesignated introductory text, the section titled “Findings,” and the undesignated text following condition 9.

¹ The EPA does not have the authority to remove these source-specific requirements in the absence of a demonstration that their removal would not interfere with attainment or maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment. Washington Department of Ecology may request removal by submitting such a demonstration to the EPA as a SIP revision.

(e) *EPA approved nonregulatory provisions and quasi-regulatory measures.*

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Washington Department of Ecology Regulations				
173–400–220	Requirements for Board Members.	3/22/91	6/2/95, 60 FR 28726.	
173–400–230	Regulatory Actions	3/20/93	6/2/95, 60 FR 28726.	
173–400–240	Criminal Penalties	3/22/91	6/2/95, 60 FR 28726.	
173–400–250	Appeals	9/20/93	6/2/95, 60 FR 28726.	
173–400–260	Conflict of Interest	7/1/16	10/6/16, 81 FR 69385.	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–433–200	Regulatory Actions and Penalties.	10/18/90	1/15/93, 58 FR 4578.	
Energy Facility Site Evaluation Council Regulations				
463–78–135	Criminal Penalties	11/11/04	5/30/17, 82 FR 24531.	
463–78–140	Appeals Procedure	3/26/06	5/30/17, 82 FR 24531.	
463–78–170	Conflict of Interest	11/11/04	5/30/17, 82 FR 24531.	
463–78–230	Regulatory Actions	11/11/04	5/30/17, 82 FR 24531.	
Benton Clean Air Agency Regulations				
2.01	Powers and Duties of the Benton Clean Air Agency (BCAA).	12/11/14	11/17/15, 80 FR 71695.	Replaces WAC 173–400–220.
2.02	Requirements for Board of Directors Members..	12/11/14	11/17/15, 80 FR 71695.	
2.03	Powers and Duties of the Board of Directors.	12/11/14	11/17/15, 80 FR 71695.	
2.04	Powers and Duties of the Control Officer.	12/11/14	11/17/15, 80 FR 71695.	
2.05	Severability	12/11/14	11/17/15, 80 FR 71695.	
2.06	Confidentiality of Records and Information.	12/11/14	11/17/15, 80 FR 71695.	
Northwest Clean Air Agency Regulations				
103	Duties and Powers	8/21/05	6/15/20, 85 FR 36154.	
105	Separability	8/21/05	6/15/20, 85 FR 36154.	
110	Investigation and Studies	8/21/05	6/15/20, 85 FR 36154.	
111	Interference or Obstruction	8/21/05	6/15/20, 85 FR 36154.	
112	False and Misleading Oral Statement: Unlawful Reproduction or Alteration of Documents.	8/21/05	6/15/20, 85 FR 36154.	
113	Service of Notice	12/22/07	6/15/20, 85 FR 36154.	
114	Confidential Information	12/22/07	6/15/20, 85 FR 36154.	
120	Hearings	12/22/07	6/15/20, 85 FR 36154.	
123	Appeal of Orders	4/14/13	6/15/20, 85 FR 36154.	
124	Display of Orders, Certificates and Other Notices: Removal or Mutilation Prohibited.	8/21/05	6/15/20, 85 FR 36154.	
131	Notice to Violators	4/14/13	6/15/20, 85 FR 36154.	
132	Criminal Penalty	9/13/15	6/15/20, 85 FR 36154.	
133	Civil Penalty	9/13/15	6/15/20, 85 FR 36154.	
134	Restraining Orders—Injunction ..	8/21/05	6/15/20, 85 FR 36154.	
135	Assurance of Discontinuance	12/22/07	6/15/20, 85 FR 36154.	
303	Work Done Without an Approval	5/12/19	6/15/20, 85 FR 36154.	
Olympic Region Clean Air Agency Regulations				
8.1.6	Penalties	5/22/10	10/3/13, 78 FR 61188.	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Puget Sound Clean Air Agency Regulations				
3.01	Duties and Powers of the Control Officer.	11/1/99	4/22/20, 85 FR 22355.	
3.05	Investigations by the Control Officer.	3/17/94	4/22/20, 85 FR 22355.	
3.07	Compliance Tests	5/1/06	4/22/20, 85 FR 22355.	
3.09	Violations—Notice	9/12/91	4/22/20, 85 FR 22355.	
3.11	Civil Penalties	11/1/19	4/22/20, 85 FR 22355.	
3.13	Criminal Penalties	9/12/91	4/22/20, 85 FR 22355.	
3.15	Additional Enforcement	9/12/91	4/22/20, 85 FR 22355.	
3.17	Appeal of Orders	11/14/98	4/22/20, 85 FR 22355.	
3.19	Confidential Information	9/12/91	4/22/20, 85 FR 22355.	
3.21	Separability	9/12/91	4/22/20, 85 FR 22355.	
Southwest Clean Air Agency Regulations				
400–220	Requirements for Board Members.	3/18/01	4/10/17, 82 FR 17136.	
400–230	Regulatory Actions and Civil Penalties.	9/10/21	9/29/23, 88 FR 67097.	
400–240	Criminal Penalties	9/10/21	9/29/23, 88 FR 67097.	
400–250	Appeals	11/9/03	4/10/17, 82 FR 17136.	
400–270	Confidentiality of Records and Information.	9/10/21	9/29/23, 88 FR 67097.	
400–280	Powers of Agency .....	.....	9/29/23, 88 FR 67097.	
Spokane Regional Clean Air Agency Regulations				
2.01	Powers and Duties of the Board	9/1/20	5/10/21, 86 FR 24718.	
2.02	Control Officer's Duties and Powers.	9/1/20	5/10/21, 86 FR 24718.	Section 2.02(E) replaces WAC 173–400–105(3).
2.03	Confidential or Proprietary Information.	9/1/20	5/10/21, 86 FR 24718.	
2.04	Violations	9/1/20	5/10/21, 86 FR 24718.	Replaces WAC 173–400–230(1)&(6).
2.05	Orders and Hearings	9/1/20	5/10/21, 86 FR 24718.	
2.06	Appeal of Board Orders	9/1/20	5/10/21, 86 FR 24718.	Replaces WAC 173–400–250.
2.10	Severability	9/1/20	5/10/21, 86 FR 24718.	
2.11	Penalties, Civil Penalties, and Additional Means for Enforcement.	9/1/20	5/10/21, 86 FR 24718.	Replaces WAC 173–400–230(2)&(3).
2.12	Restraining Orders—Injunctions	9/1/20	5/10/21, 86 FR 24718.	Replaces WAC 173–400–230(4).
8.11	Regulatory Actions and Penalties.	9/2/14	9/28/15, 80 FR 58216.	
Yakima Regional Clean Air Agency Regulations				
1.05	Roles and Responsibilities	11/9/20	7/11/22, 87 FR 41064.	
2.01	Authority and Investigation	11/9/20	7/11/22, 87 FR 41064.	
2.02	Authority to Collect Fees	11/9/20	7/11/22, 87 FR 41064.	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
2.05	Appeals	11/9/20	7/11/22, 87 FR 41064.	
5.01	General Information	11/9/20	7/11/22, 87 FR 41064.	
5.02	Additional or Alternative Enforcement Actions.	11/9/20	7/11/22, 87 FR 41064.	
5.03	Penalties	11/9/20	7/11/22, 87 FR 41064.	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
Attainment and Maintenance Planning—Carbon Monoxide				
Carbon Monoxide Attainment Plan.	Yakima	4/27/79	6/5/80, 45 FR 37821.	
Carbon Monoxide Attainment Plan.	Puget Sound	1/22/93	1/20/94, 59 FR 2994.	
Carbon Monoxide Attainment Plan.	Spokane	1/22/93	1/20/94, 59 FR 2994.	
Carbon Monoxide Attainment Plan.	Vancouver	1/22/93	1/20/94, 59 FR 2994.	
Carbon Monoxide Attainment Plan—Contingency Measure.	Vancouver	11/10/93	10/31/94, 59 FR 54419.	
Carbon Monoxide Attainment Plan—VMT Supplement.	Puget Sound	1/22/93	8/23/95, 60 FR 43710.	
Carbon Monoxide Maintenance Plan.	Puget Sound	2/29/96	10/11/96, 61 FR 53323.	
Carbon Monoxide Maintenance Plan.	Vancouver	3/19/96	10/21/96, 61 FR 54560.	
Carbon Monoxide Attainment Plan—Revisions.	Spokane	9/14/93 and 4/30/96	9/22/97, 62 FR 49442.	
Carbon Monoxide Attainment Plan—Correction.	Spokane .....	.....	12/31/97, 62 FR 68187.	
Carbon Monoxide Maintenance Plan.	Yakima	9/26/01	11/01/02, 67 FR 66555.	
Carbon Monoxide Maintenance Plan 10-Year Update.	Puget Sound	12/17/03; 6/3/19	8/5/04, 69 FR 47365; 2/18/21, 86 FR 10026.	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
Carbon Monoxide Attainment Plan—Including Kaiser Orders.	Spokane	9/20/01 and 11/22/04	5/12/05, 70 FR 24991.	
Carbon Monoxide Maintenance Plan.	Spokane	11/29/04	6/29/05, 70 FR 37269.	
Carbon Monoxide Maintenance Plan 10-Year Update.	Vancouver	4/25/07; 6/3/19	6/27/08, 73 FR 36439; 2/18/21, 86 FR 10026.	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
Carbon Monoxide 2nd 10-Year Limited Maintenance Plan.	Spokane	5/11/16; 6/3/19	7/14/16, 81 FR 45417; 2/18/21, 86 FR 10026.	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
Attainment and Maintenance Planning—Lead (Pb)				
Lead Attainment Plan.	Seattle	9/27/84	1/29/85, 50 FR 3907.	
Attainment and Maintenance Planning—Ozone				
Ozone Attainment Plan.	Vancouver	7/16/82	12/17/82, 47 FR 56497.	
Ozone Attainment Plan.	Seattle-Tacoma	7/16/82	2/28/83, 48 FR 8273.	
Ozone Attainment Plan—VOC RACT.	Seattle-Tacoma	5/14/91	7/12/93, 58 FR 37426.	
Ozone Attainment Plan—VOC RACT.	Vancouver	5/14/91	7/12/93, 58 FR 37426.	
Ozone Attainment Plan—Emission Statement Program.	Seattle-Tacoma	1/28/93	9/12/94, 59 FR 46764.	
Ozone Attainment Plan—Emission Statement Program.	Vancouver	1/28/93	9/12/94, 59 FR 46764.	
Ozone Maintenance Plan.	Seattle-Tacoma	3/4/96	9/26/96, 21 FR 50438.	
Ozone Maintenance Plan.	Vancouver	6/13/96	5/19/97, 62 FR 27204.	
Ozone Maintenance Plan 10-Year Update.	Seattle-Tacoma	12/17/03	8/5/04, 69 FR 47365.	
8-Hour Ozone 110(a)(1) Maintenance Plan.	Seattle-Tacoma	2/5/08	5/2/14, 79 FR 25010; 2/18/21, 86 FR 10026.	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
8-Hour Ozone 110(a)(1) Maintenance Plan.	Vancouver	1/17/07	8/11/15, 80 FR 48033; 2/18/21, 86 FR 10026.	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
Attainment and Maintenance Planning—Particulate Matter (PM₁₀)				
Particulate Matter (PM ₁₀) Attainment Plan.	Kent	11/15/91	7/27/93, 58 FR 40059.	
Particulate Matter (PM ₁₀) Attainment Plan.	Thurston County	2/17/89 and 11/15/91	7/27/93, 58 FR 40056.	
Particulate Matter (PM ₁₀) Attainment Plan.	Tacoma	5/2/95	10/25/95, 60 FR 54559.	
Particulate Matter (PM ₁₀) Attainment Plan.	Seattle	2/21/95	10/26/95, 60 FR 54812.	
Particulate Matter (PM ₁₀) Attainment Plan.	Spokane	12/9/94	1/27/97, 62 FR 3800.	
Particulate Matter (PM ₁₀) Attainment Plan.	Wallula	11/13/91	1/27/97, 62 FR 3800.	
Particulate Matter (PM ₁₀) Attainment Plan.	Yakima	3/24/89	2/2/98, 63 FR 5269.	
Particulate Matter (PM ₁₀) Maintenance Plan.	Thurston County	8/16/99	10/4/00, 65 FR 59128.	
Particulate Matter (PM ₁₀) Maintenance Plan.	Kent	8/23/99	3/13/01, 66 FR 14492.	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
Particulate Matter (PM ₁₀) Maintenance Plan.	Seattle	8/23/99	3/13/01, 66 FR 14492.	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
Particulate Matter (PM ₁₀) Maintenance Plan.	Tacoma	8/23/99	3/13/01, 66 FR 14492.	
Particulate Matter (PM ₁₀) Maintenance Plan.	Yakima	7/8/04	2/8/05, 70 FR 6591.	
Particulate Matter (PM ₁₀) Attainment Plan—Revision.	Wallula	11/30/04	5/2/05, 70 FR 22597.	
Particulate Matter (PM ₁₀) Maintenance Plan.	Spokane	11/30/04	7/1/05, 70 FR 38029.	
Particulate Matter (PM ₁₀) Maintenance Plan.	Wallula	3/29/05	8/26/05, 70 FR 50212.	
Particulate Matter (PM ₁₀) 2nd 10-Year Limited Maintenance Plan.	Thurston County	7/1/13	10/3/13, 78 FR 61188.	
Particulate Matter (PM ₁₀) 2nd 10-Year Limited Maintenance Plan.	Kent, Seattle, and Tacoma	11/29/13; 6/3/19	8/20/14, 79 FR 49244; 2/18/21, 86 FR 10026.	
Particulate Matter (PM ₁₀) 2nd 10-Year Limited Maintenance Plan.	Spokane	1/4/16	4/12/16, 81 FR 21470.	
Particulate Matter (PM ₁₀) 2nd 10-Year Limited Maintenance Plan.	Wallula	11/22/19	5/1/20, 85 FR 25303.	

Attainment and Maintenance Planning—Particulate Matter (PM_{2.5})

Particulate Matter (PM _{2.5}) Clean Data Determination.	Tacoma, Pierce County	5/22/12	9/04/12, 77 FR 53772.	
Particulate Matter (PM _{2.5}) 2008 Baseline Emissions Inventory and SIP Strengthening Rules.	Tacoma, Pierce County	11/28/12	5/29/13, 78 FR 32131.	
Approval of Motor Vehicle Emission Budgets and Determination of Attainment for the 2006 24-Hour Fine Particulate Standard (PM _{2.5}).	Tacoma, Pierce County	11/28/12	9/19/13, 78 FR 57503.	
Particulate Matter (PM _{2.5}) Maintenance Plan.	Tacoma, Pierce County	11/3/14	2/10/15, 80 FR 7347.	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
Visibility and Regional Haze Plans				
Visibility New Source Review (NSR) for non-attainment areas for Washington.	Statewide .....	.....	6/26/86, 51 FR 23228.	The Regional Haze SIP including those provisions relating to BART incorporated by reference in § 52.2470 'Identification of plan' with the exception of the BART provisions that are replaced with a BART FIP in § 52.2498 Visibility protection., § 52.2500 Best available retrofit technology requirements for the Intalco Aluminum Corporation (Intalco Works) primary aluminum plant—Better than BART Alternative., § 52.2501 Best available retrofit technology (BART) requirement for the Tesoro Refining and Marketing Company oil refinery—Better than BART Alternative., § 52.2502 Best available retrofit technology requirements for the Alcoa Inc.—Wenatchee Works primary aluminum smelter.
Washington State Visibility Protection Program.	Statewide	11/5/99	6/11/03, 68 FR 34821.	
Regional Haze State Implementation Plan—TransAlta BART.	Statewide	12/29/11	12/6/12, 77 FR 72742.	
Regional Haze SIP.	Statewide	12/22/10	6/11/14, 79 FR 33438.	
Regional Haze SIP—Technical Correction.	Statewide	12/22/10	11/24/14, 79 FR 69767.	
Regional Haze State Implementation Plan—BP Cherry Point Refinery BART Revision.	Statewide	5/14/15	2/16/16, 81 FR 7710.	
Regional Haze Progress Report.	Statewide	11/6/2017	7/31/18, 83 FR 36752.	
Smoke Management Planning				
Department of Natural Resources 2022 Smoke Management Plan.	Statewide	8/10/22	8/10/23, 88 FR 54240.	
110(a)(2) Infrastructure and Interstate Transport				
Interstate Transport for the 1997 8-Hour Ozone and PM _{2.5} NAAQS.	Statewide	1/17/07	1/13/09, 74 FR 1591.	
110(a)(2) Infrastructure Requirements—1997 Ozone Standard.	Statewide	1/24/12	5/24/12, 77 FR 30902.	

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
110(a)(2) Infrastructure Requirements—2008 Lead Standard.	Statewide	4/14/14	7/23/14, 79 FR 42683.	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
110(a)(2) Infrastructure Requirements—2008 Ozone and 2010 Nitrogen Dioxide Standards.	Statewide	9/22/14	1/14/15, 80 FR 1849.	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
110(a)(2) Infrastructure Requirements—1997, 2006, and 2012 Fine Particulate Matter (PM _{2.5}) Standards.	Statewide	9/22/14	5/12/15, 80 FR 27102.	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Interstate Transport for the 2008 Pb and 2010 NO ₂ NAAQS.	Statewide	5/11/15	7/16/15, 80 FR 42042.	This action addresses CAA 110(a)(2)(D)(i)(I).
Interstate Transport for the 2006 24-hour PM _{2.5} NAAQS.	Statewide	5/11/15	7/30/15, 80 FR 45429.	This action addresses CAA 110(a)(2)(D)(i)(I).
Interstate Transport for the 2008 Ozone NAAQS.	Statewide	5/11/15	12/15/15, 80 FR 77578.	This action addresses CAA 110(a)(2)(D)(i)(I).
Interstate Transport for the 2012 PM _{2.5} NAAQS.	Statewide	2/7/18	8/20/18, 83 FR 42031.	This action addresses CAA 110(a)(2)(D)(i)(I).
Interstate Transport for the 2015 Ozone NAAQS.	Statewide	2/7/18	9/20/18, 83 FR 47568.	This action addresses CAA 110(a)(2)(D)(i)(I).
110(a)(2) Infrastructure Requirements—Sulfur Dioxide Standards and 2015 Ozone Standards.	Statewide	9/30/19 and 4/3/20	2/18/21, 86 FR 10022.	This action addresses the following CAA section 110(a)(2) elements: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Interstate Transport for the 2010 SO ₂ NAAQS.	Statewide	2/7/18	2/18/21, 86 FR 10015.	This action addresses CAA 110(a)(2)(D)(i)(I).
Other Federally Mandated Plans				
Oxygenated Gasoline Program.	.....	1/22/93	1/20/94, 59 FR 2994.	
Business Assistance Program.	.....	11/16/92	3/8/95, 60 FR 12685.	
Supplementary Documents				
Air Quality Monitoring, Data Reporting and Surveillance Provisions.	.....	4/15/81		

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
Energy Facilities Site Evaluation Council (EFSEC) Memorandum of Agreement.		2/23/82		
2003 Columbia Plateau Wind-blown Dust Natural Events Action Plan.		11/22/19	5/1/20, 85 FR 25303.	
2018 Fugitive Dust Control Guidelines for Beef Cattle Feedlots and Best Management Practices.		11/22/19	5/1/20, 85 FR 25303.	



FEDERAL REGISTER

Vol. 89

Monday,

No. 160

August 19, 2024

Part III

Environmental Protection Agency

40 CFR Part 52

Air Plan Partial Approval and Partial Disapproval; Utah; Regional Haze State Implementation Plan for the Second Implementation Period; Air Plan Disapproval; Utah; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2024–0389; FRL–12173–01–R8]

Air Plan Partial Approval and Partial Disapproval; Utah; Regional Haze State Implementation Plan for the Second Implementation Period; Air Plan Disapproval; Utah; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this notice of proposed rulemaking, the Environmental Protection Agency (EPA) is proposing to act on two Utah State implementation plan (SIP) submissions related to visibility protection. First, we are proposing to partially approve and partially disapprove a regional haze SIP submission for the second implementation period that Utah submitted on August 2, 2022. The regional haze SIP submission addresses the requirement that states revise their long-term strategies every implementation period to make reasonable progress towards the national goal of preventing any future, and remedying any existing, anthropogenic impairment of visibility, including regional haze, in mandatory Class I Federal areas. Utah's regional haze SIP submission also addresses other applicable requirements for the second implementation period of the regional haze program. The EPA is taking this action on Utah's regional haze SIP submission pursuant to the Clean Air Act (CAA or the Act). Second, the EPA is proposing to disapprove a portion of Utah's infrastructure SIP submission submitted on January 9, 2020, to address the applicable requirements of CAA section 110(a)(2) for the 2015 Ozone National Ambient Air Quality Standards (NAAQS). Our proposed disapproval is based on CAA section 110(a)(2)(D)(i)(II)'s requirement that a state's SIP contain adequate provisions prohibiting emissions that will interfere with measures to protect visibility required to be included in any other state's SIP (known as interstate transport "prong 4"). The EPA is taking this action on Utah's infrastructure SIP submission pursuant to section 110 of the CAA.

DATES: Written comments must be received on or before September 18, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2024–0389 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.regulations.gov>. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full public comment policy of the EPA, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the <https://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in <https://www.regulations.gov>. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Clayton Bean, U.S. Environmental Protection Agency, Region 8, Air and Radiation Division; 1595 Wynkoop Street, Denver, Colorado 80202–1129; telephone: (303) 312–6143; email address: bean.clayton@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What action is the EPA proposing?
- II. Background and Requirements for Regional Haze Plans
 - A. Regional Haze Background
 - B. Roles of Agencies in Addressing Regional Haze
 - C. Background on Utah's First Implementation Period SIP
 - D. Utah's Second Implementation Period SIP Submission
- III. Requirements for Regional Haze Plans for the Second Implementation Period

- A. Identification of Class I Areas
- B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress
- C. Long-Term Strategy for Regional Haze
- D. Reasonable Progress Goals
- E. Monitoring Strategy and Other State Implementation Plan Requirements
- F. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals
- G. Requirements for State and Federal Land Manager Coordination
- IV. The EPA's Evaluation of Utah's Regional Haze Submission for the Second Implementation Period
 - A. Identification of Class I Areas
 - B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress
 - C. Long-Term Strategy
 - D. Reasonable Progress Goals
 - E. Reasonably Attributable Visibility Impairment
 - F. Monitoring Strategy and Other State Implementation Plan Requirements
 - G. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals
 - H. Requirements for State and Federal Land Manager Coordination
- V. Interstate Transport Prong 4 (Visibility) for the 2015 Ozone NAAQS Infrastructure SIP
 - A. Infrastructure SIPs
 - B. Prong 4 Requirements
 - C. Utah's Prong 4 Elements
 - D. The EPA's Evaluation of Utah's Submittal
- VI. Proposed Action
- VII. Environmental Justice
- VIII. Statutory and Executive Order Reviews

I. What action is the EPA proposing?

In this notice of proposed rulemaking, the EPA is proposing to take action on two Utah SIP submissions related to visibility protection. First, as detailed in section IV., the EPA's Evaluation of Utah's Regional Haze Submission for the Second Implementation Period, we are proposing to partially approve and partially disapprove Utah's regional haze second implementation period SIP submission. Second, as a consequence of our proposed partial disapproval of the regional haze SIP submission and as detailed in section V. of this document, we are proposing to disapprove a portion of Utah's infrastructure SIP for the 2015 ozone NAAQS.

On August 2, 2022, the Utah Department of Environmental Quality's Division of Air Quality (DAQ) submitted a SIP submission to the EPA to address regional haze for the second implementation period. Utah made this SIP submission to satisfy the requirements of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 CFR 51.308(f). The EPA is proposing to approve the portions of Utah's Regional Haze SIP

submission relating to 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress; (f)(4): reasonably attributable visibility impairment; (f)(5) and (g): progress report requirements; and (f)(6): monitoring strategy and other implementation plan requirements. The EPA is proposing disapproval for the portions of Utah's regional haze SIP submission relating to 40 CFR 51.308(f)(2): long-term strategy; (f)(3): reasonable progress goals; and (i): FLM consultation. Consistent with section 110(k)(3) of the CAA, the EPA may partially approve portions of a SIP submittal if those elements meet all applicable requirements and may disapprove the remainder so long as the elements are fully separable.

Additionally, the EPA proposes to disapprove a portion of Utah's January 9, 2020 infrastructure SIP submission for the 2015 ozone NAAQS that addresses interstate transport of visibility impairing pollutants. Utah submitted this SIP submission to address the applicable requirements of CAA section 110(a)(2) for the 2015 ozone NAAQS. We propose to disapprove the portion of the infrastructure SIP submission addressing interstate transport of visibility impairing pollutants for not meeting the requirements of CAA section 110(a)(2)(D)(i)(II).

II. Background and Requirements for Regional Haze Plans

A. Regional Haze Background

In the 1977 CAA amendments, Congress created a program for protecting visibility in the nation's mandatory Class I Federal areas, which include certain national parks and wilderness areas.¹ CAA section 169A. The CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." CAA section 169A(a)(1). The CAA further directs the EPA to promulgate regulations to assure reasonable progress toward meeting this national goal. CAA section 169A(a)(4). On December 2, 1980, the EPA promulgated

regulations to address visibility impairment in mandatory Class I Federal areas (hereinafter referred to as "Class I areas") that is "reasonably attributable" to a single source or small group of sources. (45 FR 80084, December 2, 1980). These regulations, codified at 40 CFR 51.300 through 51.307, represented the first phase of the EPA's efforts to address visibility impairment. In 1990, Congress added section 169B to the CAA to further address visibility impairment, specifically, impairment from regional haze. CAA section 169B. The EPA promulgated the Regional Haze Rule (RHR), codified at 40 CFR 51.308 and 51.309,² on July 1, 1999 (64 FR 35714, July 1, 1999). On January 10, 2017, the EPA promulgated additional regulations that address visibility impairment for the second and subsequent implementation periods (82 FR 3078, January 10, 2017). These regional haze regulations are a central component of the EPA's comprehensive visibility protection program for Class I areas.

Regional haze is visibility impairment that is produced by a multitude of anthropogenic sources and activities that are located across a broad geographic area and that emit pollutants that impair visibility. Visibility impairing pollutants include fine and coarse particulate matter (PM) (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (e.g., sulfur dioxide (SO₂), nitrogen oxides (NO_x), and, in some cases, volatile organic compounds (VOC) and ammonia (NH₃)). Fine particle precursors react in the atmosphere to form fine particulate matter (PM_{2.5}), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the perception of clarity and color, as well as visible distance.³

² In addition to the generally applicable regional haze provisions at 40 CFR 51.308, the EPA also promulgated regulations specific to addressing regional haze visibility impairment in Class I areas on the Colorado Plateau at 40 CFR 51.309. The requirements under 40 CFR 51.309(d)(4) contain general requirements pertaining to stationary sources and market trading and allow states to adopt alternatives to the point source application of BART.

³ There are several ways to measure the amount of visibility impairment, i.e., haze. One such measurement is the deciview, which is the principal metric used by the RHR. Under many circumstances, a change in one deciview will be perceived by the human eye to be the same on both clear and hazy days. The deciview is unitless. It is proportional to the logarithm of the atmospheric extinction of light, which is the perceived dimming of light due to its being scattered and absorbed as it passes through the atmosphere. Atmospheric light extinction (b_{ext}) is a metric used for expressing visibility and is measured in inverse megameters (Mm⁻¹). The EPA's Guidance on Regional Haze

To address regional haze visibility impairment, the 1999 RHR established an iterative planning process that requires both states in which Class I areas are located and states "the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility" in a Class I area to periodically submit SIP revisions to address such impairment. CAA section 169A(b)(2);⁴ see also 40 CFR 51.308(b), (f) (establishing submission dates for iterative regional haze SIP revisions) (64 FR 35768, July 1, 1999). Under the CAA, each SIP submission must contain "a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal," CAA section 169A(b)(2)(B); the initial round of SIP submissions also had to address the statutory requirement that certain older, larger sources of visibility impairing pollutants install and operate the best available retrofit technology (BART). CAA section 169A(b)(2)(A); 40 CFR 51.308(d), (e). States' first regional haze SIPs were due by December 17, 2007, 40 CFR 51.308(b), with subsequent SIP submissions containing updated long-term strategies originally due July 31, 2018, and every ten years thereafter. (64 FR 35768, July 1, 1999) The EPA established in the 1999 RHR that all states either have Class I areas within their borders or "contain sources whose emissions are reasonably anticipated to contribute to regional haze in a Class I area"; therefore, all states must submit regional haze SIPs.⁵ *Id.* at 35721.

Much of the focus in the first implementation period of the regional haze program, which ran from 2007 through 2018, was on satisfying states' BART obligations. First implementation period SIPs were additionally required to contain long-term strategies for

State Implementation Plans for the Second Implementation Period ("2019 Guidance") offers the flexibility for the use of light extinction in certain cases. Light extinction can be simpler to use in calculations than deciviews, since it is not a logarithmic function. See, e.g., 2019 Guidance at 16, 19, <https://www.epa.gov/visibility/guidance-regional-haze-state-implementation-plans-second-implementation-period>, The EPA Office of Air Quality Planning and Standards, Research Triangle Park (August 20, 2019). The formula for the deciview is $10 \ln(b_{ext})/10 \text{ Mm}^{-1}$. 40 CFR 51.301.

⁴ The RHR expresses the statutory requirement for states to submit plans addressing out-of-state Class I areas by providing that states must address visibility impairment "in each mandatory Class I Federal area located outside the State that may be affected by emissions from within the State." 40 CFR 51.308(d), (f).

⁵ In addition to each of the fifty states, the EPA also concluded that the Virgin Islands and District of Columbia must also submit regional haze SIPs because they either contain a Class I area or contain sources whose emissions are reasonably anticipated to contribute regional haze in a Class I area. See 40 CFR 51.300(b), (d)(3).

¹ Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. CAA section 162(a). There are 156 mandatory Class I areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

making reasonable progress toward the national visibility goal, of which BART is one component. The core required elements for the first implementation period SIPs (other than BART) are laid out in 40 CFR 51.308(d). Those provisions required that states containing Class I areas establish reasonable progress goals (RPGs) that are measured in deciviews and reflect the anticipated visibility conditions at the end of the implementation period including from implementation of states' long-term strategies. The first implementation period⁶ RPGs were required to provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period. In establishing the RPGs for any Class I area in a state, the state was required to consider four statutory factors: the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources. CAA section 169A(g)(1); 40 CFR 51.308(d)(1).

States were also required to calculate baseline (using the five-year period of 2000–2004) and natural visibility conditions (*i.e.*, visibility conditions without anthropogenic visibility impairment) for each Class I area, and to calculate the linear rate of progress needed to attain natural visibility conditions, assuming a starting point of baseline visibility conditions in 2004 and ending with natural conditions in 2064. This linear interpolation is known as the uniform rate of progress (URP) and is used as a tracking metric to help states assess the amount of progress they are making towards the national visibility goal over time in each Class I area.⁷ 40 CFR 51.308(d)(1)(i)(B), (d)(2).

⁶ The EPA uses the terms “implementation period” and “planning period” interchangeably.

⁷ The EPA established the URP framework in the 1999 RHR to provide “an equitable analytical approach” to assessing the rate of visibility improvement at Class I areas across the country. The starting point for the URP analysis is 2004 and the endpoint was calculated based on the amount of visibility improvement that was anticipated to result from implementation of existing CAA programs over the period from the mid-1990s to approximately 2005. Assuming this rate of progress would continue into the future, the EPA determined that natural visibility conditions would be reached in 60 years, or 2064 (60 years from the baseline starting point of 2004). However, the EPA did not establish 2064 as the year by which the national goal must be reached. 64 FR 35731–32. That is, the URP and the 2064 date are not enforceable targets but are rather tools that “allow for analytical comparisons between the rate of progress that would be achieved by the state’s chosen set of

The 1999 RHR also provided that states’ long-term strategies must include the “enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals.” 40 CFR 51.308(d)(3). In establishing their long-term strategies, states are required to consult with other states that also contribute to visibility impairment in a given Class I area and include all measures necessary to obtain their shares of the emission reductions needed to meet the RPGs. 40 CFR 51.308(d)(3)(i), (ii). Section 51.308(d) also contains seven additional factors states must consider in formulating their long-term strategies (see 40 CFR 51.308(d)(3)(v)), as well as provisions governing monitoring and other implementation plan requirements. 40 CFR 51.308(d)(4). Finally, the 1999 RHR required states to submit periodic progress reports—SIP revisions due every five years that contain information on states’ implementation of their regional haze plans and an assessment of whether anything additional is needed to make reasonable progress, see 40 CFR 51.308(g), (h)—and to consult with the Federal Land Manager(s)⁸ (FLMs) responsible for each Class I area according to the requirements in CAA section 169A(d) and 40 CFR 51.308(i).

On January 10, 2017, the EPA promulgated revisions to the RHR (82 FR 3078, January 10, 2017) that apply for the second and subsequent implementation periods. The 2017 rulemaking made several changes to the requirements for regional haze SIPs to clarify states’ obligations and streamline certain regional haze requirements. The revisions to the regional haze program for the second and subsequent implementation periods focused on the requirement that states’ SIPs contain long-term strategies for making reasonable progress towards the national visibility goal. The reasonable progress requirements as revised in the 2017 rulemaking (referred to here as the 2017 RHR Revisions) are codified at 40 CFR 51.308(f). Among other changes, the 2017 RHR Revisions adjusted the deadline for states to submit their second implementation period SIPs from July 31, 2018, to July 31, 2021, clarified the order of analysis and the relationship between RPGs and the

control measures and the URP. (82 FR 3078, 3084, January 10, 2017).

⁸ The EPA’s regulations define “Federal Land Manager” as “the Secretary of the department with authority over the Federal Class I area (or the Secretary’s designee) or, with respect to Roosevelt-Campobello International Park, the Chairman of the Roosevelt-Campobello International Park Commission.” 40 CFR 51.301.

long-term strategy, and focused on making visibility improvements on the days with the most *anthropogenic* visibility impairment, as opposed to the days with the most visibility impairment overall. The EPA also revised requirements of the visibility protection program related to periodic progress reports and FLM consultation. The specific requirements applicable to second implementation period regional haze SIP submissions are addressed in detail below.

The EPA provided guidance to the states for their second implementation period SIP submissions in the preamble to the 2017 RHR Revisions as well as in subsequent, stand-alone guidance documents. In August 2019, the EPA issued “Guidance on Regional Haze State Implementation Plans for the Second Implementation Period” (“2019 Guidance”).⁹ On July 8, 2021, the EPA issued a memorandum containing “Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period” (“2021 Clarifications Memo”).¹⁰ Additionally, the EPA further clarified the recommended procedures for processing ambient visibility data and optionally adjusting the URP to account for international anthropogenic and prescribed fire impacts in two technical guidance documents: the December 2018 “Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program” (“2018 Visibility Tracking Guidance”),¹¹ and the June 2020 “Recommendation for the Use of Patched and Substituted Data and Clarification of Data Completeness for Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program” and associated

⁹ Guidance on Regional Haze State Implementation Plans for the Second Implementation Period. <https://www.epa.gov/visibility/guidance-regional-haze-state-implementation-plans-second-implementation-period>. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (August 20, 2019).

¹⁰ Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period. <https://www.epa.gov/system/files/documents/2021-07/clarifications-regarding-regional-haze-state-implementation-plans-for-the-second-implementation-period.pdf>. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (July 8, 2021).

¹¹ Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program. <https://www.epa.gov/visibility/technical-guidance-tracking-visibility-progress-second-implementation-period-regional>. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (December 20, 2018).

Technical Addendum (“2020 Data Completeness Memo”).¹²

As explained in the 2021 Clarifications Memo, the EPA intends the second implementation period of the regional haze program to secure meaningful reductions in visibility impairing pollutants that build on the significant progress states have achieved to date. The Agency also recognizes that analyses regarding reasonable progress are state-specific and that, based on states’ and sources’ individual circumstances, what constitutes reasonable reductions in visibility impairing pollutants will vary from state-to-state. While there exist many opportunities for states to leverage both ongoing and upcoming emission reductions under other CAA programs, the Agency expects states to undertake rigorous reasonable progress analyses that identify further opportunities to advance the national visibility goal consistent with the statutory and regulatory requirements. See generally 2021 Clarifications Memo. This is consistent with Congress’s determination that a visibility protection program is needed in addition to the CAA’s National Ambient Air Quality Standards and Prevention of Significant Deterioration programs, as further emission reductions may be necessary to adequately protect visibility in Class I areas throughout the country.¹³

B. Roles of Agencies in Addressing Regional Haze

Because the air pollutants and pollution affecting visibility in Class I areas can be transported over long distances, successful implementation of the regional haze program requires long-term, regional coordination among multiple jurisdictions and agencies that have responsibility for Class I areas and the emissions that impact visibility in those areas. To address regional haze, states need to develop strategies in coordination with one another, considering the effect of emissions from

one jurisdiction on the air quality in another. Five regional planning organizations (RPOs),¹⁴ which include representation from state and Tribal governments, the EPA, and FLMs, were developed in the lead-up to the first implementation period to address regional haze. RPOs evaluate technical information to better understand how emissions from state and tribal land impact Class I areas across the country, pursue the development of regional strategies to reduce emissions of particulate matter and other pollutants leading to regional haze, and help states meet the consultation requirements of the RHR.

The Western Regional Air Partnership (WRAP), one of the five RPOs described in the previous paragraph, is a collaborative effort of State governments, local air agencies, Tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the western United States. Members include the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming, and 28 Tribal governments.¹⁵ The Federal partner members of WRAP are the EPA, U.S. National Parks Service (NPS), U.S. Fish and Wildlife Service (USFWS), U.S. Forest Service (USFS), and the U.S. Bureau of Land Management (BLM).

The WRAP membership formed a workgroup to develop a planning framework for state regional haze second implementation period SIPs. Based on emissions inventories and monitoring data supplied by its membership, WRAP produced a technical system to support regional modeling of visibility impacts at Class I areas across the West. The WRAP Technical Support System (TSS) consolidated air quality monitoring data, meteorological and receptor modeling data analyses, emissions inventories and projections, and gridded air quality/visibility regional modeling results. The WRAP TSS is accessible by member States and allows for the creation of maps, figures, and tables to export and use in SIP development. WRAP TSS also maintains the original source data for verification and further analysis. Utah relied on the WRAP TSS products and Interagency Monitoring of

Protected Visual Environments (IMPROVE) data to determine visibility conditions and impacts at in-state and out-of-state Class I areas.

C. Background on Utah’s First Implementation Period SIP

The CAA required that regional haze plans for the first implementation period include both a long-term strategy for making reasonable progress and BART requirements for certain older stationary sources, where applicable.¹⁶ Utah submitted SIP revisions addressing regional haze for the first implementation period in September 2008 and May 2011. In 2012, the EPA partially approved and partially disapproved Utah’s 2008 and 2011 SIP submissions, which included disapproval of NO_x and PM BART for subject-to-BART sources.¹⁷

In June 2015, Utah submitted a SIP revision to address the NO_x and PM BART determinations we had previously disapproved. In 2016, the EPA partially approved and partially disapproved the June 2015 SIP submission and promulgated a Federal implementation plan (FIP) for NO_x BART at Hunter Units 1, 2, and 3, and Huntington Units 1 and 2.¹⁸

In 2019, Utah submitted a new SIP revision for NO_x BART.¹⁹ In November 2020, the EPA approved Utah’s 2019 SIP submission and concurrently withdrew the 2016 FIP.²⁰

Utah submitted its first implementation period progress report in 2016 to meet the requirements of 40 CFR 51.308(g) and (h). The progress report described progress toward the reasonable progress goals and contained a determination of adequacy of Utah’s regional haze SIP to achieve established goals for visibility improvement and

¹² Recommendation for the Use of Patched and Substituted Data and Clarification of Data Completeness for Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program. <https://www.epa.gov/visibility/memo-and-technical-addendum-ambient-data-usage-and-completeness-regional-haze-program>. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (June 3, 2020).

¹³ See, e.g., H.R. Rep. No. 95–294 at 205 (“In determining how to best remedy the growing visibility problem in these areas of great scenic importance, the committee realizes that as a matter of equity, the national ambient air quality standards cannot be revised to adequately protect visibility in all areas of the country.”) (“the mandatory Class I increments of [the PSD program] do not adequately protect visibility in Class I areas”).

¹⁴ RPOs are sometimes also referred to as “multi-jurisdictional organizations,” or MJOs. For the purposes of this document, the terms RPO and MJO are synonymous.

¹⁵ A full list of WRAP members is available at <https://www.westar.org/wrap-council-members/>.

¹⁶ Requirements for regional haze SIPs for the first implementation period are contained in Clean Air Act section 169A(b)(2). The RHR provided two paths for states to address regional haze in the first implementation period. Most states must follow 40 CFR 51.308(d) and (e), which require states to perform individual point source BART determinations and evaluate the need for other control strategies. The requirements for addressing regional haze visibility impairment in the sixteen Class I areas covered by the Grand Canyon Visibility Transport Commission are found in 40 CFR 51.309(d)(4), which contains general requirements pertaining to stationary sources and market trading and allows states to adopt alternatives to the point source application of BART. See also 40 CFR 51.308(b). States with Class I areas covered by the Grand Canyon Visibility Transport Commission could choose to submit a regional haze SIP under 40 CFR 51.308 or 51.309.

¹⁷ 77 FR 74355, 74357 (Dec. 14, 2012).

¹⁸ 81 FR 43894, 43896, 43907 (July 5, 2016).

¹⁹ On December 3, 2019, Utah submitted a supplement to the July 3, 2019 SIP submission that included an amendment to the monitoring, recordkeeping, and reporting requirements.

²⁰ 85 FR 75860 (Nov. 27, 2020).

emissions reductions. The EPA approved the progress report in 2020.²¹

D. Utah's Second Implementation Period SIP Submission

In accordance with CAA section 169A and the RHR at 40 CFR 51.308(f), on August 2, 2022, Utah made a SIP submission to the EPA to address the State's regional haze obligations for the second implementation period.²² Prior to submission, Utah made its draft regional haze SIP available for public comment from May 1, 2022, to May 31, 2022, and held a public hearing on May 26, 2022. The public comments and Utah's responses are contained in the State's regional haze SIP submission and are available in the docket for this action.

Section IV of this document describes Utah's regional haze SIP submission, including the four-factor analyses conducted by certain sources that Utah identified as potential contributors to visibility impairment, and Utah's determinations of the emissions reduction measures necessary to make reasonable progress based on those analyses. The regional haze SIP submission also includes Utah's

assessment of progress made since the first implementation period in reducing emissions of visibility impairing pollutants, as well as visibility progress at in-state and out-of-state Class I areas. Section IV also contains the EPA's evaluation of Utah's SIP submission against the requirements of the CAA and RHR (as described in section III. of this document). The entirety of Utah's regional haze SIP submission is included in the docket for this action.

We have also included a Technical Support Document (TSD) in the docket to provide technical information and analysis supporting our proposed action on the Utah regional haze SIP submission. The TSD includes our review of the WRAP analyses that Utah relied on during the State's regional haze second implementation period SIP development process.

III. Requirements for Regional Haze Plans for the Second Implementation Period

Under the CAA and the EPA's regulations, all 50 states, the District of Columbia, and the U.S. Virgin Islands are required to submit regional haze SIPs satisfying the applicable requirements for the second implementation period of the regional haze program by July 31, 2021. Each state's SIP must contain a long-term strategy for making reasonable progress toward meeting the national goal of remedying any existing and preventing any future anthropogenic visibility impairment in Class I areas. CAA section 169A(b)(2)(B). To this end, 40 CFR 51.308(f) lays out the process by which states determine what constitutes their long-term strategies, with the order of the requirements in § 51.308(f)(1) through (3) generally mirroring the order of the steps in the reasonable progress analysis²³ and (f)(4) through (6) containing additional, related requirements. Broadly speaking, a state first must identify the Class I areas within the state and determine the Class I areas outside the state in which visibility may be affected by emissions from the state. These are the Class I areas that must be addressed in the state's long-term strategy. See 40 CFR 51.308(f) introductory text, (f)(2). For each Class I area within its borders, a state must then calculate the baseline, current, and natural visibility conditions for that area, as well as the visibility improvement made to date and the URP. See 40 CFR 51.308(f)(1).

Each state having a Class I area and/or emissions that may affect visibility in a Class I area must then develop a long-term strategy that includes the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress in such areas. A reasonable progress determination is based on applying the four factors in CAA section 169A(g)(1) to sources of visibility impairing pollutants that the state has selected to assess for controls for the second implementation period. Additionally, as further explained below, the RHR at 40 CFR 51.3108(f)(2)(iv) separately provides five "additional factors"²⁴ that states must consider in developing their long-term strategies. See 40 CFR 51.308(f)(2). A state evaluates potential emission reduction measures for those selected sources and determines which are necessary to make reasonable progress. Those measures are then incorporated into the state's long-term strategy. After a state has developed its long-term strategy, it then establishes RPGs for each Class I area within its borders by modeling the visibility impacts of all reasonable progress controls at the end of the second implementation period, *i.e.*, in 2028, as well as the impacts of other requirements of the CAA. The RPGs include reasonable progress controls not only for sources in the state in which the Class I area is located, but also for sources in other states that contribute to visibility impairment in that area. The RPGs are then compared to the baseline visibility conditions and the URP to ensure that progress is being made towards the statutory goal of preventing any future and remedying any existing anthropogenic visibility impairment in Class I areas. 40 CFR 51.308(f)(2) and (3).

In addition to satisfying the requirements at 40 CFR 51.308(f) related to reasonable progress, the regional haze SIP revisions for the second implementation period must address the requirements in § 51.308(g)(1) through (5) pertaining to periodic reports describing progress towards the RPGs, 40 CFR 51.308(f)(5), as well as requirements for FLM consultation that apply to all visibility protection SIPs and SIP revisions. 40 CFR 51.308(i).

A state must submit its regional haze SIP and subsequent SIP revisions to the EPA according to the requirements applicable to all SIP revisions under the CAA and the EPA's regulations. See

²¹ 85 FR 64050 (Oct. 9, 2020).

²² Utah's regional haze SIP submission comprises several documents that are available in the docket for this action. The document titled "Utah Regional Haze SIP Submittal 2022 v2" is a PDF totaling 491 pages that Utah submitted to the EPA on August 2, 2022. This document includes both Utah's final regional haze SIP narrative (titled "Utah State Implementation Plan, Regional Haze Second Implementation Period, Section XX.A" and dated August 1, 2022) and the draft regional haze SIP that Utah proposed for public comment in May 2022 during its State public comment process. The EPA is not evaluating Utah's draft public comment version of the regional haze SIP. Therefore, for the reader's convenience, we have included a standalone document in the docket for this action titled "Final SIP Only—Utah Regional Haze SIP Submittal 2022 v2." This document contains only the submittal letter, Legal Authority, Public Comments, Final Effective Rule, Final Effective Plans, and Certification portions of Utah's August 2, 2022 SIP submission. We created this document to help the public avoid confusion between the State's public comment draft SIP and final SIP. In this notice of proposed rulemaking, our references to page numbers in Utah's regional haze SIP submission are based on the internal pagination of the "Utah State Implementation Plan, Regional Haze Second Implementation Period, Section XX.A" dated August 1, 2022.

As part of its SIP submission, Utah also submitted a 704-page PDF titled "Utah State Implementation Plan Appendices," which contains a collection of technical documents and communications. This PDF is also available in the docket for this action. Because many portions of the PDF are illegible due to poor quality, we have included a legible version of each individual document contained within the larger "Utah State Implementation Plan Appendices" PDF in the docket for this action. In this notice of proposed rulemaking, our references to page numbers in appendices to Utah's regional haze SIP submission are based on the internal pagination of the legible individual documents.

²³ The EPA explained in the 2017 RHR Revisions that we were adopting new regulatory language in 40 CFR 51.308(f) that, unlike the structure in § 51.308(d), "tracked the actual planning sequence." 82 FR 3091.

²⁴ The five "additional factors" for consideration in § 51.308(f)(2)(iv) are distinct from the four factors listed in CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i) that states must consider and apply to sources in determining reasonable progress.

CAA section 169A(b)(2); CAA section 110(a). Upon approval by the EPA, a SIP is enforceable by the Agency and the public under the CAA. If the EPA finds that a state fails to make a required SIP revision, or if the EPA finds that a state's SIP is incomplete or if it disapproves the SIP, the Agency must promulgate a FIP that satisfies the applicable requirements. CAA section 110(c)(1).

A. Identification of Class I Areas

The first step in developing a regional haze SIP is for a state to determine which Class I areas, in addition to those within its borders, “may be affected” by emissions from within the state. In the 1999 RHR, the EPA determined that all states contribute to visibility impairment in at least one Class I area (see 64 FR 35720–22), and explained that the statute and regulations lay out an “extremely low triggering threshold” for determining “whether States should be required to engage in air quality planning and analysis as a prerequisite to determining the need for control of emissions from sources within their State.” *Id.* at 35721.

A state must determine which Class I areas must be addressed by its SIP by evaluating the total emissions of visibility impairing pollutants from all sources within the state. While the RHR does not require this evaluation to be conducted in any particular manner, the EPA's 2019 Guidance provides recommendations for how such an assessment might be accomplished, including by, where appropriate, using the determinations previously made for the first implementation period. 2019 Guidance at 8–9. In addition, the determination of which Class I areas may be affected by a state's emissions is subject to the requirement in 40 CFR 51.308(f)(2)(iii) to “document the technical basis, including modeling, monitoring, cost, engineering, and emissions information, on which the State is relying to determine the emission reduction measures that are necessary to make reasonable progress in each mandatory Class I Federal area it affects.”

B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress

As part of assessing whether a SIP submission for the second implementation period is providing for reasonable progress towards the national visibility goal, the RHR contains requirements in § 51.308(f)(1) related to tracking visibility improvement over time. The

requirements of this section apply only to states having Class I areas within their borders; the required calculations must be made for each such Class I area. The EPA's 2018 Visibility Tracking Guidance²⁵ provides recommendations to assist states in satisfying their obligations under § 51.308(f)(1); specifically, in developing information on baseline, current, and natural visibility conditions, and in making optional adjustments to the URP to account for the impacts of international anthropogenic emissions and prescribed fires. See 82 FR 3103–05.

The RHR requires tracking of visibility conditions on two sets of days: the clearest and the most impaired days. Visibility conditions for both sets of days are expressed as the average deciview index for the relevant five-year period (the period representing baseline or current visibility conditions). The RHR provides that the relevant sets of days for visibility tracking purposes are the 20% clearest (the 20% of monitored days in a calendar year with the lowest values of the deciview index) and 20% most impaired days (the 20% of monitored days in a calendar year with the highest amounts of anthropogenic visibility impairment).²⁶ 40 CFR 51.301. A state must calculate visibility conditions for both the 20% clearest and 20% most impaired days for the baseline period of 2000–2004 and the most recent five-year period for which visibility monitoring data are available (representing current visibility conditions). 40 CFR 51.308(f)(1)(i), (iii). States must also calculate natural visibility conditions for the clearest and most impaired days,²⁷ by estimating the conditions that would exist on those two sets of days absent anthropogenic visibility impairment. 40 CFR 51.308(f)(1)(ii). Using all these data, states must then calculate, for each

Class I area, the amount of progress made since the baseline period (2000–2004) and how much improvement is left to achieve to reach natural visibility conditions.

Using the data for the set of most impaired days only, states must plot a line between visibility conditions in the baseline period and natural visibility conditions for each Class I area to determine the URP—the amount of visibility improvement, measured in deciviews, that would need to be achieved during each implementation period to achieve natural visibility conditions by the end of 2064. The URP is used in later steps of the reasonable progress analysis for informational purposes and to provide a non-enforceable benchmark against which to assess a Class I area's rate of visibility improvement.²⁸ Additionally, in the 2017 RHR Revisions, the EPA provided states the option of proposing to adjust the endpoint of the URP to account for impacts of anthropogenic sources outside the United States and/or impacts of certain types of wildland prescribed fires. These adjustments, which must be approved by the EPA, are intended to avoid any perception that states should compensate for impacts from international anthropogenic sources and to give states the flexibility to determine that limiting the use of wildland-prescribed fire is not necessary for reasonable progress. 82 FR 3107, footnote 116.

The EPA's 2018 Visibility Tracking Guidance can be used to help satisfy the 40 CFR 51.308(f)(1) requirements, including in developing information on baseline, current, and natural visibility conditions, and in making optional adjustments to the URP. In addition, the 2020 Data Completeness Memo provides recommendations on the data completeness language referenced in § 51.308(f)(1)(i) and provides updated natural conditions estimates for each Class I area.

C. Long-Term Strategy for Regional Haze

The core component of a regional haze SIP submission is a long-term strategy that addresses regional haze in each Class I area within a state's borders and each Class I area outside the state that may be affected by emissions from the state. The long-term strategy “must include the enforceable emissions limitations, compliance schedules, and

²⁵ The 2018 Visibility Tracking Guidance references and relies on parts of the 2003 Tracking Guidance: “Guidance for Tracking Progress Under the Regional Haze Rule,” which can be found at <https://www.epa.gov/sites/default/files/2021-03/documents/tracking.pdf>.

²⁶ This document also refers to the 20% clearest and 20% most anthropogenically impaired days as the “clearest” and “most impaired” or “most anthropogenically impaired” days, respectively.

²⁷ The RHR at 40 CFR 51.308(f)(1)(ii) contains an error related to the requirement for calculating two sets of natural conditions values. The rule says “most impaired days or the clearest days” where it should say “most impaired days and clearest days.” This is an error that was intended to be corrected in the 2017 RHR Revisions but did not get corrected in the final rule language. This is supported by the preamble text at 82 FR 3098: “In the final version of 40 CFR 51.308(f)(1)(ii), an occurrence of “or” has been corrected to “and” to indicate that natural visibility conditions for both the most impaired days and the clearest days must be based on available monitoring information.”

²⁸ Being on or below the URP is not a “safe harbor”; i.e., achieving the URP does not mean that a Class I area is making “reasonable progress” and does not relieve a state from using the four statutory factors to determine what level of control is needed to achieve such progress. See, e.g., 82 FR 3093.

other measures that are necessary to make reasonable progress, as determined pursuant to (f)(2)(i) through (iv).” 40 CFR 51.308(f)(2). The amount of progress that is “reasonable progress” is based on applying the four statutory factors in CAA section 169A(g)(1) in an evaluation of potential control options for sources of visibility impairing pollutants, which is referred to as a “four-factor” analysis. The outcome of that analysis is the emission reduction measures that a particular source or group of sources needs to implement to make reasonable progress towards the national visibility goal. See 40 CFR 51.308(f)(2)(i). Emission reduction measures that are necessary to make reasonable progress may be either new, additional control measures for a source, or they may be the existing emission reduction measures that a source is already implementing. See 2019 Guidance at 43; 2021 Clarifications Memo at 8–10. Such measures must be represented by “enforceable emissions limitations, compliance schedules, and other measures” (*i.e.*, any additional compliance tools) in a state’s long-term strategy in its SIP. 40 CFR 51.308(f)(2).

Section 51.308(f)(2)(i) provides the requirements for the four-factor analysis. The first step of this analysis entails selecting the sources to be evaluated for emission reduction measures; to this end, the RHR requires states to consider “major and minor stationary sources or groups of sources, mobile sources, and area sources” of visibility impairing pollutants for potential four-factor control analysis. 40 CFR 51.308(f)(2)(i). A threshold question at this step is which visibility impairing pollutants will be analyzed. As the EPA previously explained, consistent with the first implementation period, the EPA generally expects that each state will analyze at least SO₂ and NO_x in selecting sources and determining control measures. See 2019 Guidance at 12; 2021 Clarifications Memo at 4. A state that chooses not to consider at least these two pollutants should demonstrate why such consideration would be unreasonable. 2021 Clarifications Memo at 4.

While states have the option to analyze *all* sources, the 2019 Guidance explains that “an analysis of control measures is not required for every source in each implementation period,” and that “[s]electing a set of sources for analysis of control measures in each implementation period is . . . consistent with the Regional Haze Rule, which sets up an iterative planning process and anticipates that a state may not need to analyze control measures for all its sources in a given SIP revision.”

2019 Guidance at 9. However, given that source selection is the basis of all subsequent control determinations, a reasonable source selection process “should be designed and conducted to ensure that source selection results in a set of pollutants and sources the evaluation of which has the potential to meaningfully reduce their contributions to visibility impairment.” 2021 Clarifications Memo at 3.

The EPA explained in the 2021 Clarifications Memo that each state has an obligation to submit a long-term strategy that addresses the regional haze visibility impairment that results from emissions from within that state. Thus, source selection should focus on the in-state contribution to visibility impairment and be designed to capture a meaningful portion of the state’s total contribution to visibility impairment in Class I areas. A state should not decline to select its largest in-state sources on the basis that there are even larger out-of-state contributors. 2021 Clarifications Memo at 4.²⁹

Thus, while states have discretion to choose any source selection methodology that is reasonable, whatever choices they make should be reasonably explained. To this end, 40 CFR 51.308(f)(2)(i) requires that a state’s SIP submission include “a description of the criteria it used to determine which sources or groups of sources it evaluated.” The technical basis for source selection, which may include methods for quantifying potential visibility impacts such as emissions divided by distance metrics, trajectory analyses, residence time analyses, and/or photochemical modeling, must also be appropriately documented, as required by 40 CFR 51.308(f)(2)(iii).

Once a state has selected the set of sources, the next step is to determine the emissions reduction measures for those sources that are necessary to make reasonable progress for the second implementation period.³⁰ This is

²⁹ Similarly, in responding to comments on the 2017 RHR Revisions, the EPA explained that “[a] state should not fail to address its many relatively low-impact sources merely because it only has such sources and another state has even more low-impact sources and/or some high impact sources.” Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule (81 FR 26942, May 4, 2016) at 87–88.

³⁰ The CAA provides that “[i]n determining reasonable progress there shall be taken into consideration” the four statutory factors. CAA section 169A(g)(1). However, in addition to four-factor analyses for selected sources, groups of sources, or source categories, a state may also consider additional emission reduction measures for inclusion in its long-term strategy, *e.g.*, from other newly adopted, on-the-books, or on-the-way rules and measures for sources not selected for four-

accomplished by considering the four factors—“the costs of compliance, the time necessary for compliance, and the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.” CAA section 169A(g)(1). The EPA has explained that the four-factor analysis is an assessment of potential emission reduction measures (*i.e.*, control options) for sources; “use of the terms ‘compliance’ and ‘subject to such requirements’ in section 169A(g)(1) strongly indicates that Congress intended the relevant determination to be the requirements with which sources would have to comply to satisfy the CAA’s reasonable progress mandate.” 82 FR 3091. Thus, for each source it has selected for four-factor analysis,³¹ a state must consider a “meaningful set” of technically feasible control options for reducing emissions of visibility impairing pollutants. *Id.* at 3088. The 2019 Guidance provides that “[a] state must reasonably pick and justify the measures that it will consider, recognizing that there is no statutory or regulatory requirement to consider all technically feasible measures or any particular measures. A range of technically feasible measures available to reduce emissions would be one way to justify a reasonable set.” 2019 Guidance at 29.

The EPA’s 2021 Clarifications Memo provides further guidance on what constitutes a reasonable set of control options for consideration: “A reasonable four-factor analysis will consider the full range of potentially reasonable options for reducing emissions.” 2021 Clarifications Memo at 7. In addition to add-on controls and other retrofits (*i.e.*, new emissions reduction measures for sources), the EPA explained that states should generally analyze efficiency improvements for sources’ existing

factor analysis for the second implementation period.

³¹ “Each source” or “particular source” is used here as shorthand. While a source-specific analysis is one way of applying the four factors, neither the statute nor the RHR requires states to evaluate individual sources. Rather, states have “the flexibility to conduct four-factor analyses for specific sources, groups of sources or even entire source categories, depending on state policy preferences and the specific circumstances of each state.” 82 FR 3088. However, not all approaches to grouping sources for four-factor analysis are necessarily reasonable; the reasonableness of grouping sources in any particular instance will depend on the circumstances and the manner in which grouping is conducted. If it is feasible to establish and enforce different requirements for sources or subgroups of sources, and if relevant factors can be quantified for those sources or subgroups, then states should make a separate reasonable progress determination for each source or subgroup. 2021 Clarifications Memo at 7–8.

measures as control options in their four-factor analyses, as in many cases such improvements are reasonable given that they typically involve only additional operation and maintenance costs. Additionally, the 2021 Clarifications Memo provides that states that have assumed a higher emissions rate than a source has achieved or could potentially achieve using its existing measures should also consider lower emissions rates as potential control options. That is, a state should consider a source's recent actual and projected emission rates to determine if it could reasonably attain lower emission rates with its existing measures. If so, the state should analyze the lower emission rate as a control option for reducing emissions. 2021 Clarifications Memo at 7. The EPA's recommendations to analyze potential efficiency improvements and achievable lower emission rates apply to both sources that have been selected for four-factor analysis and those that have forgone a four-factor analysis on the basis of existing "effective controls." See 2021 Clarifications Memo at 5, 10.

After identifying a reasonable set of potential control options for the sources it has selected, a state then collects information on the four factors with regard to each option identified. The EPA has also explained that, in addition to the four statutory factors, states have flexibility under the CAA and RHR to reasonably consider visibility benefits as an additional factor alongside the four statutory factors.³² The 2019 Guidance provides recommendations for the types of information that can be used to characterize the four factors (with or without visibility), as well as ways in which states might reasonably consider and balance that information to determine which of the potential control options is necessary to make reasonable progress. See 2019 Guidance at 30–36. The 2021 Clarifications Memo contains further guidance on how states can reasonably consider modeled visibility impacts or benefits in the context of a four-factor analysis. 2021 Clarifications Memo at 12–13, 14–15. Specifically, the EPA explained that while visibility can reasonably be used when comparing and choosing between multiple reasonable control options, it should not be used to summarily reject controls that are reasonable given the four statutory factors. 2021 Clarifications Memo at 13. Ultimately, while states

have discretion to reasonably weigh the factors and to determine what level of control is needed, § 51.308(f)(2)(i) provides that a state "must include in its implementation plan a description of . . . how the four factors were taken into consideration in selecting the measure for inclusion in its long-term strategy."

As explained above, § 51.308(f)(2)(i) requires states to determine the emission reduction measures for sources that are necessary to make reasonable progress by considering the four factors. Pursuant to § 51.308(f)(2), measures that are necessary to make reasonable progress towards the national visibility goal must be included in a state's long-term strategy and in its SIP.³³ If the outcome of a four-factor analysis is a new, additional emission reduction measure for a source, that new measure is necessary to make reasonable progress towards remedying existing anthropogenic visibility impairment and must be included in the SIP. If the outcome of a four-factor analysis is that no new measures are reasonable for a source, continued implementation of the source's existing measures is generally necessary to prevent future emission increases and thus to make reasonable progress towards the second part of the national visibility goal: preventing future anthropogenic visibility impairment. See CAA section 169A(a)(1). That is, when the result of a four-factor analysis is that no new measures are necessary to make reasonable progress, the source's existing measures are generally necessary to make reasonable progress and must be included in the SIP. However, there may be circumstances in which a state can demonstrate that a source's existing measures are *not* necessary to make reasonable progress. Specifically, if a state can demonstrate that a source will continue to implement its existing measures and will not increase its emissions rate, it may not be necessary to have those measures in the long-term strategy to prevent future emissions increases and future visibility impairment. The EPA's 2021 Clarifications Memo provides

³³ States may choose to, but are not required to, include measures in their long-term strategies beyond just the emission reduction measures that are necessary for reasonable progress. See 2021 Clarifications Memo at 16. For example, states with smoke management programs may choose to submit their smoke management plans to the EPA for inclusion in their SIPs but are not required to do so. See, e.g., 82 FR 3108–09 (requirement to consider smoke management practices and smoke management programs under 40 CFR 51.308(f)(2)(iv) does not require states to adopt such practices or programs into their SIPs, although they may elect to do so).

further explanation and guidance on how states may demonstrate that a source's existing measures are not necessary to make reasonable progress. See 2021 Clarifications Memo at 8–10. If the state can make such a demonstration, it need not include a source's existing measures in the long-term strategy or its SIP.

As with source selection, the characterization of information on each of the factors is also subject to the documentation requirement in § 51.308(f)(2)(iii). The reasonable progress analysis, including source selection, information gathering, characterization of the four statutory factors (and potentially visibility), balancing of the four factors, and selection of the emission reduction measures that represent reasonable progress, is a technically complex exercise, but also a flexible one that provides states with bounded discretion to design and implement approaches appropriate to their circumstances. Given this flexibility, § 51.308(f)(2)(iii) plays an important function in requiring a state to document the technical basis for its decision making so that the public and the EPA can comprehend and evaluate the information and analysis the state relied upon to determine what emission reduction measures must be in place to make reasonable progress. The technical documentation must include the modeling, monitoring, cost, engineering, and emissions information on which the state relied to determine the measures necessary to make reasonable progress. This documentation requirement can be met through the provision of and reliance on technical analyses developed through a regional planning process, so long as that process and its output has been approved by all state participants. In addition to the explicit regulatory requirement to document the technical basis of their reasonable progress determinations, states are also subject to the general principle that those determinations must be reasonably moored to the statute.³⁴ That is, a state's decisions about the emission reduction measures that are necessary to make reasonable progress must be consistent with the statutory goal of remedying existing and preventing future visibility impairment.

³⁴ See *Arizona ex rel. Darwin v. U.S. EPA*, 815 F.3d 519, 531 (9th Cir. 2016); *Nebraska v. EPA*, 812 F.3d 662, 668 (8th Cir. 2016); *North Dakota v. EPA*, 730 F.3d 750, 761 (8th Cir. 2013); *Oklahoma v. EPA*, 723 F.3d 1201, 1206, 1208–10 (10th Cir. 2013); cf. *Nat'l Parks Conservation Ass'n v. EPA*, 803 F.3d 151, 165 (3d Cir. 2015); *Alaska Dep't of Envtl. Conservation v. EPA*, 540 U.S. 461, 485, 490 (2004).

³² See, e.g., Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule (81 FR 26942, May 4, 2016), Docket ID No. EPA-HQ-OAR-2015-0531, U.S. Environmental Protection Agency at 186; 2019 Guidance at 36–37.

The four statutory factors (and potentially visibility) are used to determine what emission reduction measures for selected sources must be included in a state's long-term strategy for making reasonable progress. Additionally, the RHR at 40 CFR 51.308(f)(2)(iv) separately provides five "additional factors"³⁵ that states must consider in developing their long-term strategies: (1) Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (2) measures to reduce the impacts of construction activities; (3) source retirement and replacement schedules; (4) basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and (5) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. The 2019 Guidance provides that a state may satisfy this requirement by considering these additional factors in the process of selecting sources for four-factor analysis, when performing that analysis, or both, and that not every one of the additional factors needs to be considered at the same stage of the process. See 2019 Guidance at 21. The EPA provided further guidance on the five additional factors in the 2021 Clarifications Memo, explaining that a state should generally not reject cost-effective and otherwise reasonable controls merely because there have been emission reductions since the first implementation period owing to other ongoing air pollution control programs or merely because visibility is otherwise projected to improve at Class I areas. Additionally, states generally should not rely on these additional factors to summarily assert that the state has already made sufficient progress and, therefore, no sources need to be selected or no new controls are needed regardless of the outcome of four-factor analyses. 2021 Clarifications Memo at 13.

Because the air pollution that causes regional haze crosses state boundaries, § 51.308(f)(2)(ii) requires a state to consult with other states that also have emissions that are reasonably anticipated to contribute to visibility impairment in a given Class I area. Consultation allows for each state that

impacts visibility in an area to share whatever technical information, analyses, and control determinations may be necessary to develop coordinated emission management strategies. This coordination may be managed through inter- and intra-RPO consultation and the development of regional emissions strategies; additional consultations between states outside of RPO processes may also occur. If a state, pursuant to consultation, agrees that certain measures (e.g., a certain emission limitation) are necessary to make reasonable progress at a Class I area, it must include those measures in its SIP. 40 CFR 51.308(f)(2)(ii)(A). Additionally, the RHR requires that states that contribute to visibility impairment at the same Class I area consider the emission reduction measures the other contributing states have identified as being necessary to make reasonable progress for their own sources. 40 CFR 51.308(f)(2)(ii)(B). If a state has been asked to consider or adopt certain emission reduction measures, but ultimately determines those measures are not necessary to make reasonable progress, that state must document in its SIP the actions taken to resolve the disagreement. 40 CFR 51.308(f)(2)(ii)(C). The EPA will consider the technical information and explanations presented by the submitting state and the state with which it disagrees when considering whether to approve the state's SIP. See *id.*; 2019 Guidance at 53. Under all circumstances, a state must document in its SIP submission all substantive consultations with other contributing states. 40 CFR 51.308(f)(2)(ii)(C).

D. Reasonable Progress Goals

Reasonable progress goals "measure the progress that is projected to be achieved by the control measures states have determined are necessary to make reasonable progress based on a four-factor analysis." 82 FR 3091. Their primary purpose is to assist the public and the EPA in assessing the reasonableness of states' long-term strategies for making reasonable progress towards the national visibility goal for Class I areas within the state. See 40 CFR 51.308(f)(3)(iii) and (iv). States in which Class I areas are located must establish two RPGs, both in deciviews—one representing visibility conditions on the clearest days and one representing visibility on the most anthropogenically impaired days—for each area within their borders. 40 CFR 51.308(f)(3)(i). The two RPGs are intended to reflect the projected impacts, on the two sets of days, of the emission reduction measures the state

with the Class I area, as well as all other contributing states, have included in their long-term strategies for the second implementation period.³⁶ The RPGs also account for the projected impacts of implementing other CAA requirements, including non-SIP based requirements. Because RPGs are the modeled result of the measures in states' long-term strategies (as well as other measures required under the CAA), they cannot be determined before states have conducted their four-factor analyses and determined the control measures that are necessary to make reasonable progress. See 2021 Clarifications Memo at 6.

For the second implementation period, the RPGs are set for 2028. Reasonable progress goals are not enforceable targets, 40 CFR 51.308(f)(3)(iii); rather, they "provide a way for the states to check the projected outcome of the [long-term strategy] against the goals for visibility improvement." 2019 Guidance at 46. While states are not legally obligated to achieve the visibility conditions described in their RPGs, § 51.308(f)(3)(i) requires that "[t]he long-term strategy and the reasonable progress goals must provide for an improvement in visibility for the most impaired days since the baseline period and ensure no degradation in visibility for the clearest days since the baseline period." Thus, states are required to have emission reduction measures in their long-term strategies that are projected to achieve visibility conditions on the most impaired days that are better than the baseline period and that show no degradation on the clearest days compared to the clearest days from the baseline period. The baseline period for the purpose of this comparison is the baseline visibility condition—the annual average visibility condition for the period 2000–2004. See 40 CFR 51.308(f)(1)(i), 82 FR 3097–98.

So that RPGs may also serve as a metric for assessing the amount of progress a state is making towards the national visibility goal, the RHR requires states with Class I areas to compare the 2028 RPG for the most

³⁵ The five "additional factors" for consideration in § 51.308(f)(2)(iv) are distinct from the four factors listed in CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i) that states must consider and apply to sources in determining reasonable progress.

³⁶ RPGs are intended to reflect the projected impacts of the measures all contributing states include in their long-term strategies. However, due to the timing of analyses, control determinations by other states, and other on-going emissions changes, a particular state's RPGs may not reflect all control measures and emissions reductions that are expected to occur by the end of the implementation period. The 2019 Guidance provides recommendations for addressing the timing of RPG calculations when states are developing their long-term strategies on disparate schedules, as well as for adjusting RPGs using a post-modeling approach. 2019 Guidance at 47–48.

impaired days to the corresponding point on the URP line (representing visibility conditions in 2028 if visibility were to improve at a linear rate from conditions in the baseline period of 2000–2004 to natural visibility conditions in 2064). If the most impaired days RPG in 2028 is above the URP (*i.e.*, if visibility conditions are improving more slowly than the rate described by the URP), each state that contributes to visibility impairment in the Class I area must demonstrate, based on the four-factor analysis required under 40 CFR 51.308(f)(2)(i), that no additional emission reduction measures would be reasonable to include in its long-term strategy. 40 CFR 51.308(f)(3)(ii). To this end, 40 CFR 51.308(f)(3)(ii) requires that each state contributing to visibility impairment in a Class I area that is projected to improve more slowly than the URP provide “a robust demonstration, including documenting the criteria used to determine which sources or groups [of] sources were evaluated and how the four factors required by paragraph (f)(2)(i) were taken into consideration in selecting the measures for inclusion in its long-term strategy.” The 2019 Guidance provides suggestions about how such a “robust demonstration” might be conducted. See 2019 Guidance at 50–51.

The 2017 RHR, 2019 Guidance, and 2021 Clarifications Memo also explain that projecting an RPG that is on or below the URP based on only on-the-books and/or on-the-way control measures (*i.e.*, control measures already required or anticipated before the four-factor analysis is conducted) is not a “safe harbor” from the CAA’s and RHR’s requirement that all states must conduct a four-factor analysis to determine what emission reduction measures constitute reasonable progress. The URP is a planning metric used to gauge the amount of progress made thus far and the amount left before reaching natural visibility conditions. However, the URP is not based on consideration of the four statutory factors and therefore cannot answer the question of whether the amount of progress being made in any particular implementation period is “reasonable progress.” See 82 FR 3093, 3099–3100; 2019 Guidance at 22; 2021 Clarifications Memo at 15–16.

E. Monitoring Strategy and Other State Implementation Plan Requirements

Section 51.308(f)(6) requires states to have certain strategies and elements in place for assessing and reporting on visibility. Individual requirements under this section apply either to states with Class I areas within their borders,

states with no Class I areas but that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area, or both. A state with Class I areas within its borders must submit with its SIP revision a monitoring strategy for measuring, characterizing, and reporting regional haze visibility impairment that is representative of all Class I areas within the state. SIP revisions for such states must also provide for the establishment of any additional monitoring sites or equipment needed to assess visibility conditions in Class I areas, as well as reporting of all visibility monitoring data to the EPA at least annually. Compliance with the monitoring strategy requirement may be met through a state’s participation in the Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring network, which is used to measure visibility impairment caused by air pollution at the 156 Class I areas covered by the visibility program. 40 CFR 51.308(f)(6) introductory text and (f)(6)(i) and (iv). The IMPROVE monitoring data is used to determine the 20% most anthropogenically impaired and 20% clearest sets of days every year at each Class I area and tracks visibility impairment over time.

All states’ SIPs must provide for procedures by which monitoring data and other information are used to determine the contribution of emissions from within the state to regional haze visibility impairment in affected Class I areas. 40 CFR 51.308(f)(6)(ii) and (iii). Section 51.308(f)(6)(v) further requires that all states’ SIPs provide for a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area; the inventory must include emissions for the most recent year for which data are available and estimates of future projected emissions. States must also include commitments to update their inventories periodically. The inventories themselves do not need to be included as elements in the SIP and are not subject to the EPA’s review as part of the Agency’s evaluation of a SIP revision.³⁷ All states’ SIPs must also provide for any other elements, including reporting, recordkeeping, and other measures, that are necessary for states to assess and report on visibility. 40 CFR 51.308(f)(6)(vi). Per the 2019 Guidance, a state may note in its regional haze SIP that its compliance with the Air Emissions Reporting Rule (AERR) in 40 CFR part 51, subpart A,

satisfies the requirement to provide for an emissions inventory for the most recent year for which data are available. To satisfy the requirement to provide estimates of future projected emissions, a state may explain in its SIP how projected emissions were developed for use in establishing RPGs for its own and nearby Class I areas.³⁸

Separate from the requirements related to monitoring for regional haze purposes under 40 CFR 51.308(f)(6), the RHR also contains a requirement at § 51.308(f)(4) related to any additional monitoring that may be needed to address visibility impairment in Class I areas from a single source or a small group of sources. This is called “reasonably attributable visibility impairment.”³⁹ Under this provision, if the EPA or the FLM of an affected Class I area has advised a state that additional monitoring is needed to assess reasonably attributable visibility impairment, the state must include in its SIP revision for the second implementation period an appropriate strategy for evaluating such impairment.

F. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals

Section 51.308(f)(5) requires a state’s regional haze SIP revision to address the requirements of 40 CFR 51.308(g)(1) through (5) so that the plan revision due in 2021 will serve also as a progress report addressing the period since submission of the progress report for the first implementation period. The regional haze progress report requirement is designed to inform the public and the EPA about a state’s implementation of its existing long-term strategy and whether such implementation is in fact resulting in the expected visibility improvement. See 81 FR 26942, 26950 (May 4, 2016); 82 FR 3119 (January 10, 2017). To this end, every state’s SIP revision for the second implementation period is required to describe the status of implementation of all measures included in the state’s long-term strategy, including BART and reasonable progress emission reduction measures from the first implementation period, and the resulting emissions reductions. 40 CFR 51.308(g)(1) and (2).

A core component of the progress report requirements is an assessment of changes in visibility conditions on the clearest and most impaired days. For

³⁸ *Id.*

³⁹ The EPA’s visibility protection regulations define “reasonably attributable visibility impairment” as “visibility impairment that is caused by the emission of air pollutants from one, or a small number of sources.” 40 CFR 51.301.

³⁷ See “Step 8: Additional requirements for regional haze SIPs” in the 2019 Guidance at 55.

second implementation period progress reports, § 51.308(g)(3) requires states with Class I areas within their borders to first determine current visibility conditions for each area on the most impaired and clearest days, 40 CFR 51.308(g)(3)(i), and then to calculate the difference between those current conditions and baseline (2000–2004) visibility conditions to assess progress made to date. See 40 CFR 51.308(g)(3)(ii). States must also assess the changes in visibility impairment for the most impaired and clearest days since they submitted their first implementation period progress reports. See 40 CFR 51.308(g)(3)(iii), (f)(5). Since different states submitted their first implementation period progress reports at different times, the starting point for this assessment will vary state by state.

Similarly, states must provide analyses tracking the change in emissions of pollutants contributing to visibility impairment from all sources and activities within the state over the period since they submitted their first implementation period progress reports. See 40 CFR 51.308(g)(4), (f)(5). Changes in emissions should be identified by the type of source or activity. Section 51.308(g)(5) also addresses changes in emissions since the period addressed by the previous progress report and requires states' SIP revisions to include an assessment of any significant changes in anthropogenic emissions within or outside the state. This assessment must explain whether these changes in emissions were anticipated and whether they have limited or impeded progress in reducing emissions and improving visibility relative to what the state projected based on its long-term strategy for the first implementation period.

G. Requirements for State and Federal Land Manager Coordination

CAA section 169A(d) requires that before a state holds a public hearing on a proposed regional haze SIP revision, it must consult with the appropriate FLM or FLMs; pursuant to that consultation, the state must include a summary of the FLMs' conclusions and recommendations in the notice to the public. Consistent with this statutory requirement, the RHR also requires that states "provide the [FLM] with an opportunity for consultation, in person and at a point early enough in the State's policy analyses of its long-term strategy emission reduction obligation so that information and recommendations provided by the [FLM] can meaningfully inform the State's decisions on the long-term strategy." 40 CFR 51.308(i)(2). Consultation that occurs 120 days prior

to any public hearing or public comment opportunity will be deemed "early enough," but the RHR provides that in any event the opportunity for consultation must be provided at least 60 days before a public hearing or comment opportunity. This consultation must include the opportunity for the FLMs to discuss their assessment of visibility impairment in any Class I area and their recommendations on the development and implementation of strategies to address such impairment. 40 CFR 51.308(i)(2). For the EPA to evaluate whether FLM consultation meeting the requirements of the RHR has occurred, the SIP submission should include documentation of the timing and content of such consultation. The SIP revision submitted to the EPA must also describe how the state addressed any comments provided by the FLMs. 40 CFR 51.308(i)(3). Finally, a SIP revision must provide procedures for continuing consultation between the state and FLMs regarding the state's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas. 40 CFR 51.308(i)(4).

IV. The EPA's Evaluation of Utah's Regional Haze SIP Submission for the Second Implementation Period

In section IV of this document, we summarize Utah's regional haze SIP submission and evaluate it against the requirements of the CAA and RHR for the second implementation period of the regional haze program.

A. Identification of Class I Areas

Section 169A(b)(2) of the CAA requires each state in which any Class I area is located or "the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility" in a Class I area to have a plan for making reasonable progress toward the national visibility goal. The RHR implements this statutory requirement at 40 CFR 51.308(f) introductory text, which provides that each state's plan "must address regional haze in each mandatory Class I Federal area located within the State and in each mandatory Class I Federal area located outside the State that may be affected by emissions from within the State," and paragraph (f)(2), which requires each state's plan to include a long-term strategy that addresses regional haze in such Class I areas.

The EPA explained in the 1999 RHR preamble that the CAA section 169A(b)(2) requirement that states

submit SIPs to address visibility impairment establishes "an 'extremely low triggering threshold' in determining which States should submit SIPs for regional haze." 64 FR 35721. In concluding that each of the contiguous 48 states and the District of Columbia meet this threshold,⁴⁰ the EPA relied on "a large body of evidence demonstrat[ing] that long-range transport of fine PM contributes to regional haze," *Id.*, including modeling studies that "preliminarily demonstrated that each State not having a Class I area had emissions contributing to impairment in at least one downwind Class I area." *Id.* at 35722. In addition to the technical evidence supporting a conclusion that each state contributes to *existing* visibility impairment, the EPA also explained that the second half of the national visibility goal—preventing *future* visibility impairment—requires having a framework in place to address future growth in visibility impairing emissions and makes it inappropriate to "establish criteria for excluding States or geographic areas from consideration as potential contributors to regional haze visibility impairment." *Id.* at 35721. Thus, the EPA concluded that the agency's "statutory authority and the scientific evidence are sufficient to require all States to develop regional haze SIPs to ensure the prevention of any future impairment of visibility, and to conduct further analyses to determine whether additional control measures are needed to ensure reasonable progress in remedying existing impairment in downwind Class I areas." *Id.* at 35722. The EPA's 2017 revisions to the RHR did not disturb this conclusion. See 82 FR 3094.

Utah has five mandatory Federal Class I Federal areas within its borders: Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capitol Reef National Park, and Zion National Park. These five mandatory Class I areas are located within the physiographic region known as the Colorado Plateau.⁴¹

⁴⁰ The EPA determined that "there is more than sufficient evidence to support our conclusion that emissions from each of the 48 contiguous states and the District of Columbia may reasonably be anticipated to cause or contribute to visibility impairment in a Class I area." 64 FR 35721. Hawaii, Alaska, and the U.S. Virgin Islands must also submit regional haze SIPs because they contain Class I areas.

⁴¹ National Park Service, "Colorado Plateaus Province," <https://www.nps.gov/articles/coloradoplateaus.htm> (last accessed July 24, 2024); National Park Service, "Colorado Plateaus Province: U.S. Physiographic Province Map," <https://www.nps.gov/common/uploads/photogallery/nri/park/geology/49177B13-1DD8-B71B-0BF120CC77B24F45/49177B13-1DD8-B71B->

Additionally, based on its review of WRAP's source apportionment modeling⁴² and weighted emission potential (WEP) analysis,⁴³ Utah identified at least 45 Class I areas outside the State where visibility may be affected by Utah sources.⁴⁴ Those Class I areas are listed in tables 26 and 30 of the TSD for this action.

B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and the Uniform Rate of Progress

Section 51.308(f)(1) requires states to determine the following for "each mandatory Class I Federal area located within the State": baseline visibility conditions for the most impaired and clearest days, natural visibility conditions for the most impaired and clearest days, progress to date for the most impaired and clearest days, the differences between current visibility conditions and natural visibility conditions, and the URP. This section also provides the option for states to propose adjustments to the URP line for a Class I area to account for visibility impacts from anthropogenic sources outside the United States and/or the impacts from wildland prescribed fires that were conducted for certain, specified objectives. 40 CFR 51.308(f)(1)(vi)(B).

Utah relied on WRAP TSS products and IMPROVE data to determine visibility conditions at its five in-state Class I areas.⁴⁵ Utah elected not to adjust the URP for those Class I areas for this implementation period.

0BF120CC77B24F45-large.jpg (last accessed July 24, 2024).

⁴² For its source apportionment modeling, WRAP used its emissions inventories, including projections of future emissions, as inputs to a photochemical model that assesses light extinction (*i.e.*, visibility impairment) at each Class I area. More detail on source apportionment modeling is provided in the EPA's TSD for this action.

⁴³ WEP is a quantitative method of analyzing how pollutants from particular sources may be transported to Class I areas. More detail on WRAP's WEP analysis is provided in the EPA's TSD for this action.

⁴⁴ Utah tabulated 30 IMPROVE receptor sites located in adjacent neighboring states in tables 21–22 of the Utah regional haze SIP submission at 77–78. These sites represent 45 Class I areas. We have identified numerous other Class I areas, beyond Utah's neighboring states, that are impacted by light extinction originating from the NO_x and SO₂ emissions of Utah's sources. The forty-five out-of-state Class I areas identified for sulfate light extinction impacts represent 29% of all mandatory Class I areas, and the 45 out-of-state Class I areas identified for nitrate impacts also represent 29% of all mandatory Class I areas. At a minimum, the emissions sources identified by Utah impact visibility in more than a quarter of the 156 mandatory Class I areas nationwide.

⁴⁵ Utah regional haze SIP submission, chapter 4 and section 8.C.

Visibility impairing particulate species at Class I areas are measured and analyzed through the IMPROVE network. The IMPROVE network uses identical sampling equipment and analysis protocols to ensure that IMPROVE sites and their respective data are directly comparable. Samples collected from IMPROVE monitors provide estimations of light extinction⁴⁶ to monitor visibility conditions and compare long-term visibility trends at Class I areas. IMPROVE monitoring data is also used to determine the 20% most anthropogenically impaired days (most impaired days) and the 20% clearest days every year at each Class I area and to track visibility impairment over time, as required by the RHR.

Due to their remote nature and/or close proximity to each other, several Class I areas throughout the United States share a common IMPROVE monitoring station.⁴⁷ Four IMPROVE monitors measure visibility conditions at the five Class I areas in Utah. The IMPROVE monitor at Canyonlands National Park has been determined to also be representative of the visibility conditions at Arches National Park.

Utah determined that Arches National Park and Canyonlands National Park (CANY1) have 2000–2004 baseline visibility conditions of 3.75 deciviews on the 20% clearest days and 8.79 deciviews on the 20% most impaired days. Utah calculated an estimated natural background visibility of 1.05 deciviews on the 20% clearest days and 4.13 deciviews on the 20% most impaired days. The current visibility conditions, which are based on 2014–2018 monitoring data, were 2.20

⁴⁶ The primary cause of regional haze is light extinction by particulate matter (PM). For purposes of regional haze, light extinction is estimated from measurements of PM and its chemical components (sulfate, nitrate, organic mass by carbon (OMC), light absorbing carbon, fine soil, sea salt, and coarse material), assumptions about relative humidity at the monitoring site, and the use of a commonly accepted algorithm. These estimates of light extinction are logarithmically transformed to deciviews (dv). The PM measurements used in the regional haze program are collected by the IMPROVE monitoring network.

⁴⁷ Utah identified several Class I areas where visibility is affected by emissions from Utah sources, some of which share a single IMPROVE monitoring station. The IMPROVE Site IDs for these Class I areas are: BRID1 for Bridger Wilderness and Fitzpatrick Wilderness; CANY1 for Arches National Park and Canyonlands National Park; GUMO1 for Carlsbad Caverns National Park and Guadalupe Mountains National Park; NOAB1 for North Absaroka Wilderness and Washakie Wilderness; SULA1 for Anaconda-Pintler Wilderness and Selway-Bitterroot Wilderness; WEMI1 for Black Canyon of the Gunnison National Monument, La Garita Wilderness, and Weminuche Wilderness; WHPE1 for Pecos Wilderness and Wheeler Peak Wilderness; and WHRI1 for Eagles Nest Wilderness, Flat Tops Wilderness, Maroon Bells-Snowmass Wilderness, and West Elk Wilderness.

deciviews on the clearest days and 6.76 deciviews on the most impaired days, which are 1.15 deciviews and 2.63 deciviews greater than natural conditions on the respective sets of days. The five-year rolling average IMPROVE data from 2014–2018 indicate that Arches National Park and Canyonlands National Park are 0.9 deciviews below the 2018 URP of 7.7 deciviews.⁴⁸

Utah determined that Bryce Canyon National Park (BRCA1) has 2000–2004 baseline visibility conditions of 2.77 deciviews on the 20% clearest days and 8.42 deciviews on the 20% most impaired days. Utah calculated an estimated natural background visibility of 0.57 deciviews on the 20% clearest days and 4.08 deciviews on the 20% most impaired days. The current visibility conditions, which are based on 2014–2018 monitoring data, were 1.46 deciviews on the clearest days and 6.60 deciviews on the most impaired days, which are 0.89 deciviews and 2.52 deciviews greater than natural conditions on the respective sets of days. The five-year rolling average IMPROVE data from 2014–2018 indicates that Bryce Canyon National Park is 0.8 deciviews below the 2018 URP of 7.4 deciviews.⁴⁹

Utah determined that Capitol Reef National Park (CAP1) has 2000–2004 baseline visibility conditions of 4.10 deciviews on the 20% clearest days and 8.78 deciviews on the 20% most impaired days. Utah calculated an estimated natural background visibility of 1.28 deciviews on the 20% clearest days and 4.00 deciviews on the 20% most impaired days. The current visibility conditions, which are based on 2014–2018 monitoring data, were 2.38 deciviews on the clearest days and 7.18 deciviews on the most impaired days, which are 1.10 deciviews and 3.18 deciviews greater than natural conditions on the respective sets of days. The five-year rolling average IMPROVE data from 2014–2018 indicate that Capitol Reef National Park is 0.5 deciviews below the 2018 URP of 7.7 deciviews.⁵⁰

Utah determined that Zion National Park (ZICA1) has 2000–2004 baseline visibility conditions of 4.48 deciviews on the 20% clearest days and 10.40 deciviews on the 20% most impaired days. Utah calculated an estimated natural background visibility of 1.83 deciviews on the 20% clearest days and 5.26 deciviews on the 20% most

⁴⁸ Utah regional haze SIP submission at 175 (figure 66).

⁴⁹ *Id.* at 174 (figure 65).

⁵⁰ *Id.* at 176 (figure 67).

impaired days. The current visibility conditions, which are based on 2014–2018 monitoring data, were 3.86 deciviews on the clearest days and 8.75 deciviews on the most impaired days, which are 2.03 deciviews and 3.49 deciviews greater than natural conditions on the respective sets of days. The five-year rolling average IMPROVE data from 2014–2018 indicate that Zion National Park is 0.5 deciviews below the 2018 URP of 9.2 deciviews.⁵¹

Based on this information, which is provided in chapter 4 and section 8.C. of Utah's regional haze SIP submission, the EPA finds that the visibility condition calculations for all five Utah Class I areas meet the requirements of 40 CFR 51.308(f)(1). For this reason, we propose to approve the portions of Utah's regional haze SIP submission relating to 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions; progress to date; and the URP.

C. Long-Term Strategy

Each state having a Class I area within its borders or emissions that may affect visibility in any Class I area outside the state must develop a long-term strategy for making reasonable progress towards the national visibility goal for each impacted Class I area. CAA section 169A(b)(2)(B). As explained in the Background section of this document, reasonable progress is achieved when all states contributing to visibility impairment in a Class I area are implementing the measures determined—through application of the four statutory factors to sources of visibility impairing pollutants—to be necessary to make reasonable progress. 40 CFR 51.308(f)(2)(i). Each state's long-term strategy must include the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress. 40 CFR 51.308(f)(2). All new (*i.e.*, additional)

measures that are the outcome of four-factor analyses are necessary to make reasonable progress and must be in the long-term strategy. If the outcome of a four-factor analysis and other measures necessary to make reasonable progress is that no new measures are reasonable for a source, that source's existing measures are necessary to make reasonable progress, unless the state can demonstrate that the source will continue to implement those measures and will not increase its emission rate. Existing measures that are necessary to make reasonable progress must also be in the long-term strategy. In developing its long-term strategies, a state must also consider the five additional factors in 40 CFR 51.308(f)(2)(iv). As part of its reasonable progress determinations, the state must describe the criteria used to determine which sources or group of sources were evaluated (*i.e.*, subjected to four-factor analysis) for the second implementation period and how the four factors were taken into consideration in selecting the emission reduction measures for inclusion in the long-term strategy. 40 CFR 51.308(f)(2)(iii).

1. Summary of Utah's Four-Factor Analyses and Long-Term Strategy to Make Reasonable Progress

a. Selection of Sources for Four-Factor Analysis

Utah relied on Q/d analysis to identify sources for consideration of the four statutory factors.⁵² Q/d analysis results in a value that represents the ratio of an individual source's annual emissions of light-impairing emission precursors (NO_x, SO₂, and PM₁₀) in combined tons ("Q") divided by the distance in kilometers ("d") between the source and the nearest Class I area. The larger the Q/d value, the greater the source's expected effect on visibility impairment in each associated Class I area. Utah chose a Q/d source selection threshold of ≥ 6 , meaning that any

source with a Q/d value greater than or equal to 6 was "screened in" to the pool of sources Utah believed were appropriate for consideration of the four factors.⁵³ Following Q/d analysis, Utah then conducted a "secondary screening to review the initial pool of Q/d-qualifying sources to account for factors such as recent emissions controls required by other air quality programs, facility closures, federal preemptions on state controls, etc." ⁵⁴

Utah's Q/d analysis initially screened in ten sources: Ash Grove Leamington Cement Plant, CCI Paradox Lisbon Natural Gas Plant, Graymont Cricket Mountain Plant, Intermountain Power Authority Intermountain Power Plant,⁵⁵ Kennecott Utah Copper Mine & Copperton Concentrator, Kennecott Utah Copper Power Plant Lab Tailings Impoundment, PacifiCorp Hunter Power Plant, PacifiCorp Huntington Power Plant, Sunnyside Cogeneration Facility, and US Magnesium Rowley Plant. Utah determined that four of those sources, Intermountain Power Authority Intermountain Power Plant; CCI Paradox Lisbon Natural Gas Plant; Kennecott Utah Copper Mine & Copperton Concentrator; and Kennecott Utah Copper Power Plant Lab Tailings Impoundment, were not required to perform four-factor analyses based on current emissions, 2028 projected emissions, or plant closures or emission control measures that were put in place after the 2014 base year inventory (which was used to determine sources' Q in the Q/d analysis).⁵⁶ Table 1 lists Utah's reasoning for not requiring four-factor analyses for the four sources.

BILLING CODE 6560–50–P

⁵³ Utah used 2014 NEI emissions data to select sources for four-factor analysis. Utah performed an additional analysis using 2017 NEI emissions data at the EPA's request; no additional sources were captured.

⁵⁴ Utah regional haze SIP submission at 77.

⁵⁵ Intermountain Power Plant is also referred to as Intermountain Generation Station or Intermountain.

⁵⁶ Utah regional haze SIP submission at 100, 102.

⁵¹ *Id.* at 177 (figure 68).

⁵² Utah regional haze SIP submission at 14, 99.

Table 1. Sources Utah Excluded from Consideration of the Four Factors and Utah's Justification

Secondary Screening: Sources Excluded from Four-Factor Analysis	
Source	Utah's Justification for Exclusion
Intermountain Power Plant	Enforceable retirement by December 31, 2027, at Part H.23.c. ⁵⁷
CCI Paradox Lisbon Natural Gas Plant	SO ₂ emissions in 2014 and 2015 were anomalously high, Q/d recalculation shows the source is below the Q/d threshold, and recent actual SO ₂ emissions are a fraction of the 2014 levels used in the original Q/d calculation.
Kennecott Mine & Concentrator	Original Q/d value was calculated with non-road and mine truck emissions; recalculation is below the Q/d threshold. The source is controlled under the Salt Lake Serious Nonattainment Area PM _{2.5} SIP.
Kennecott Power Plant	Units 1-3 were decommissioned under the Salt Lake Serious Nonattainment Area PM _{2.5} SIP. Unit 4 was controlled under a selective catalytic reduction (SCR)-derived NO _x rate-based emission limit from the same PM _{2.5} SIP, but is now decommissioned. ⁵⁸

Figure 1 below shows the six sources Utah selected for four-factor analysis and their proximity to the State's Class I areas. We have also included CCI Paradox Lisbon Natural Gas Plant in figure 1 because, as detailed in section IV.C.2.b. of this document, we find that Utah unreasonably excluded this source from four-factor analysis.

⁵⁷ Utah initially selected Intermountain power plant to perform a four-factor analysis based on the

plant's combined Q/d value of 193.6 (based on 2014 NO_x, SO₂, and PM₁₀ emissions totaling 28,946 tpy). Utah regional haze SIP submission 100. However, due to the source's planned retirement, Intermountain power plant's emissions were not included in the 2028OTBa2 emissions inventory projection or in WRAP's source apportionment modeling. Intermountain power plant's combined NO_x, SO₂, and PM₁₀ emissions, in 2022, were 10,174 tpy. 2022 EPA Emission Inventory System. By magnitude of emissions, in 2022, Intermountain power plant was the sixth highest emitter of NO_x (behind Hunter power plant, the fifth highest

Figure 1. Sources Required to Perform Four-Factor Analysis and CCI Paradox Lisbon Natural Gas Plant

emitter) and the 127th highest emitter of SO₂ in the United States. EPA Clean Air Markets Program Data; TSD at 11-12, Table 7. Intermountain power plant is further discussed in sections IV.C.2.c and IV.C.2.f. of this document.

⁵⁸ Utah regional haze SIP submission at 104–05 and appendix G.

Figure 1. Sources Required to Perform Four-Factor Analysis and CCI Paradox Lisbon Natural Gas Plant

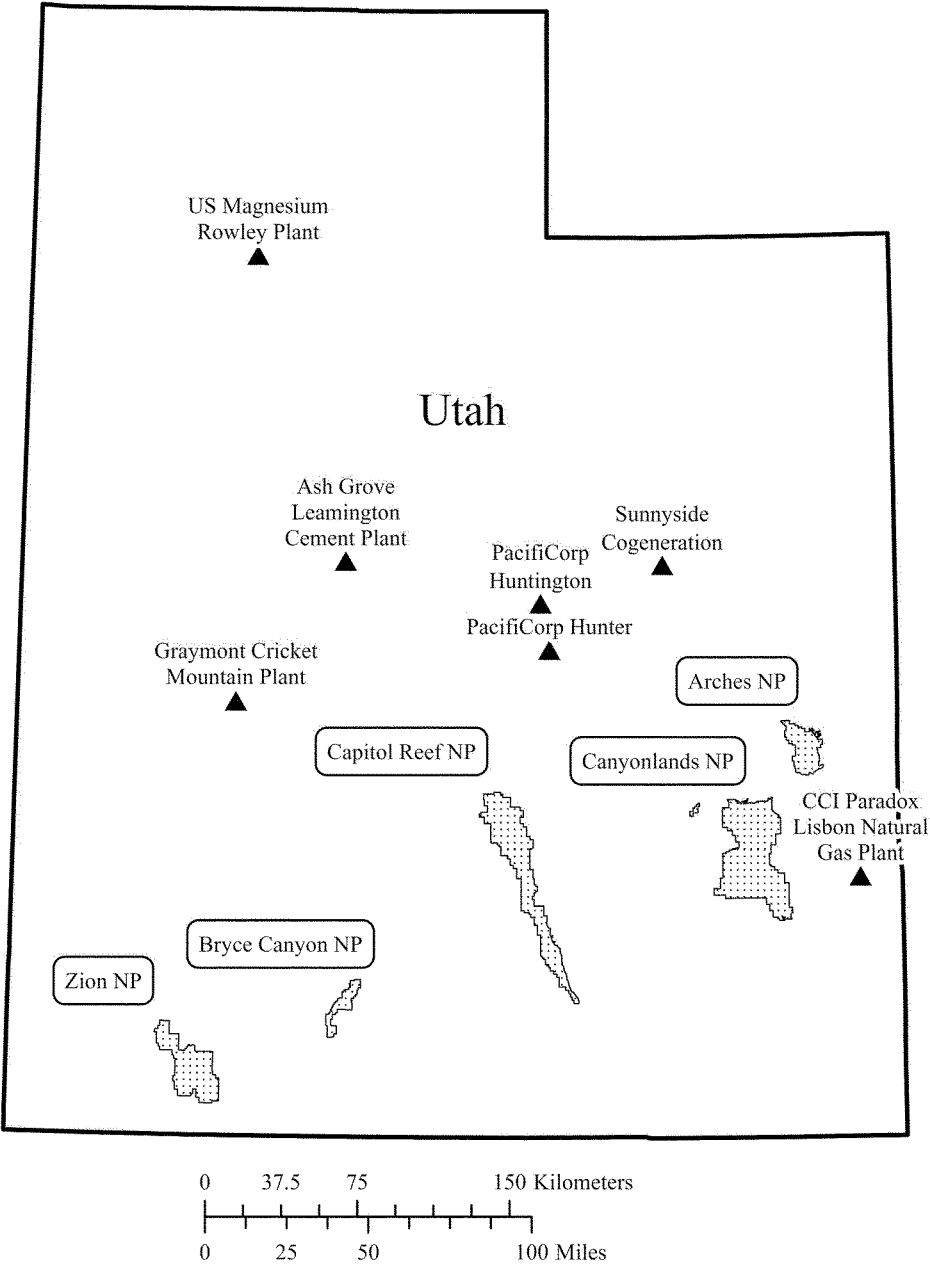


Table 2 tabulates the Q/d values associated with each source that Utah selected for four-factor analysis, as well as CCI Paradox Lisbon Natural Gas

Plant. Q/d values were calculated by Utah and WRAP.⁵⁹ Q/d values are not listed for out-of-state Class I areas located more than 400 kilometers from

a selected source, as those Class I areas fell outside WRAP’s and Utah’s analysis threshold.⁶⁰

⁵⁹ See WRAP_Threshold_Analysis.xlsm in the docket.

⁶⁰ The WRAP and Utah Q/d methodology did not calculate Q/d values for any source located at a

distance greater than 400 kilometers from a Class I area.

Table 2. Q/d Values for Total NO_x, SO₂, and PM₁₀ Emissions of Sources Selected for Four-Factor Analysis and CCI Paradox Lisbon Natural Gas Plant

State	IMPROVE Site ID	Class I Area	Ash Grove Leamington Cement Plant	CCI Paradox Lisbon Natural Gas Plant	Graymont Cricket Mtn. Plant	PacifiCorp Hunter Power Plant	PacifiCorp Huntington Power Plant	Sunnyside Cogeneration	US Magnesium Rowley Plant
			Q/d Values for Class I Areas Within 400 kms						
UT	CANY1	Arches National Park	4	14	4	135	76	15	6
UT	BRCA1	Bryce Canyon National Park	4	3	8	86	49	6	6
UT	CANY1	Canyonlands National Park	4	21	5	153	80	12	6
UT	CAPI1	Capitol Reef National Park	7	5	9	216	106	11	7
UT	ZICA1	Zion National Park	4	2	7	63	37	5	6
AZ	GRCA2	Grand Canyon NP	3	3	-	62	36	5	-
AZ	PEFO1	Petrified Forest NP	-	2	-	-	-	-	-
CO	GRSA1	Great Sand Dunes NM	-	2	-	-	-	-	-
CO	MEVE1	Mesa Verde NP	-	6	-	54	32	5	-
CO	MOZI1	Mount Zirkel Wilderness	-	2	-	41	26	5	-
CO	ROMO1	Rocky Mountain NP	-	2	-	-	-	4	-
CO	WEMI1	Black Canyon of the Gunnison NM	2	6	-	57	34	6	-
CO	WEMI1	La Garita Wilderness	-	4	-	45	27	5	-
CO	WEMI1	Weminuche Wilderness	-	5	-	49	29	5	-

CO	WHRI1	Eagles Nest Wilderness	-	3	-	41	26	4	-
CO	WHRI1	Flat Tops Wilderness	-	3	-	52	33	6	-
CO	WHRI1	Maroon Bells-Snowmass Wilderness	-	4	-	49	30	5	-
CO	WHRI1	West Elk Wilderness	-	4	-	52	32	6	-
ID	CRMO1	Craters of the Moon NM	-	-	-	-	-	-	8
ID	SAWT1	Sawtooth Wilderness	-	-	-	-	-	-	6
NM	SAPE1	San Pedro Parks Wilderness	-	2	-	-	-	-	-
NM	WHPE1	Pecos Wilderness	-	2	-	-	-	-	-
NM	WHPE1	Wheeler Peak Wilderness	-	2	-	-	-	-	-
NV	JARB1	Jarbridge Wilderness	3	-	3	-	-	-	9
WY	BRID1	Bridger Wilderness	-	-	-	-	26	4	6
WY	BRID1	Fitzpatrick Wilderness	-	-	-	-	-	4	6
WY	NOAB1	Washakie Wilderness	-	-	-	-	-	-	5
WY	YELL2	Grand Teton NP	-	-	-	-	-	-	6
WY	YELL2	Teton Wilderness	-	-	-	-	-	-	6
WY	YELL2	Yellowstone NP	-	-	-	-	-	-	6

BILLING CODE 6560-50-C

Utah also compared the sources it selected through Q/d analysis to WRAP's Weighted Emissions Potential (WEP) analysis, which was released after Utah selected its sources. WEP is a quantitative method of analyzing the contribution of visibility impairing pollutants from individual sources to visibility impairment at individual Class I areas. WEP values are calculated by overlaying extinction weighted residence time with the future projected emissions of light extinction precursors to predict which sources may have the highest contribution potential to affect visibility at Class I areas on the 20% most impaired days. In other words, WEP is an analytical method that can

identify significant emission sources that are upwind from a particular Class I area.⁶¹ Based on its review of WEP results, Utah determined that its

⁶¹ WEP is calculated by overlaying extinction weighted residence time results with 2028OTBa2 emissions of light extinction precursors (*i.e.*, NO_x emissions for ammonium nitrate light extinction and SO₂ emissions for ammonium sulfate light extinction). Extinction weighted residence time is calculated by weighting Hybrid Single-Particle Lagrangian Integrated Trajectory (HYSPLIT) back trajectories by the actual observed light extinction at IMPROVE sites on each Most Impaired Day. The results are then normalized by the sum of the WEP for the total anthropogenic emissions. WEP results include percentages of the total for nitrates and sulfates and the rankings by Class I areas. WRAP, "WEP/AOI Analysis for western U.S. Class I Areas," <https://views.cira.colostate.edu/tssv2/WEP-AOI/> (last accessed July 24, 2024).

selection of sources for four-factor analysis sufficiently captured point sources that have the potential to affect visibility at in-state and out-of-state Class I areas.⁶²

b. Four-Factor Analyses

Each of the six sources that Utah selected through Q/d analysis prepared and submitted a four-factor analysis to the State. Utah provided each source with the State's evaluation of its four-factor analysis and received responses and other information submittals from each source.⁶³ Chapter 7.C of Utah's regional haze SIP submission describes

⁶² Utah regional haze SIP submission at 108.

⁶³ *Id.* at 14.

the sources' four-factor analyses, Utah's evaluations, the sources' responses and corrections, and Utah's conclusions.

i. Ash Grove Leamington Cement Plant⁶⁴

Ash Grove Leamington Cement Plant is a cement manufacturing plant in

Leamington, Utah. The facility has a combined Q/d value of 6.9; the nearest Class I area is Capitol Reef National Park at 134 kilometers away. Existing controls at the Leamington Cement Plant are low-NO_x burners (LNB), selective non-catalytic reduction (SNCR), and a federally enforceable

NO_x emission rate of 2.8 lbs/ton clinker (30-day rolling average). Ash Grove identified six potential emission control technologies. It determined four of them to be technically infeasible; the remaining two are already installed at the plant. The results of Ash Grove's analysis are shown in table 3.

Table 3. Ash Grove Leamington Cement Plant: Summary of Four-Factor Analysis Controls

Ash Grove Leamington Cement Plant: Four-Factor Analysis Control Options					
Unit	Control Option	Pollutant	Technically Feasible	Emissions Reduction (tpy)	Cost Effectiveness (\$/ton)
Kiln 1	Fuel Substitution	SO ₂	No	N/A	N/A
Kiln 1	Wet Scrubbing	SO ₂	No	N/A	N/A
Kiln 1	Semi-Wet/Dry Scrubbing	SO ₂	No	N/A	N/A
Kiln 1	Low-NO _x Burners	NO _x	Yes (already installed)	N/A	N/A
Kiln 1	SCR	NO _x	No	N/A	N/A
Kiln 1	SNCR	NO _x	Yes (already installed)	N/A	N/A

In its review of Ash Grove's submission, Utah noted that Ash Grove could have evaluated more efficient or upgraded versions of LNB or SNCR.⁶⁵ Ash Grove responded that it was "not aware of any changes that could be made to achieve a higher level of control with the system."⁶⁶

Utah concluded that the Leamington Cement Plant is adequately controlled and that no additional emission reduction measures are required in the

regional haze second implementation period. The State determined that the source's existing SNCR controls and emissions limits are necessary for reasonable progress.⁶⁷

ii. Graymont Cricket Mountain Plant⁶⁸

The Graymont Cricket Mountain Plant is a lime processing plant with five rotary lime kilns located in rural Millard County, Utah. The facility has a combined Q/d value of 9; the nearest

Class I area is Capitol Reef National Park at 130.8 kilometers away. Existing controls at the Cricket Mountain Plant are low-NO_x burners and baghouses at each kiln.

Given Cricket Mountain's low SO₂ emissions, Utah did not require Graymont to conduct a four-factor analysis for SO₂ controls. The facility's SO₂ Q/d values at Capitol Reef National Park and SO₂ emissions data are shown in table 4.

⁶⁴ The four-factor analyses for this facility are contained in the Utah regional haze SIP submission at 132–34 and appendix C.1.A.

⁶⁵ Utah regional haze SIP submission, appendix C.1.B. at 7.

⁶⁶ Utah regional haze SIP submission, appendix C.1.C at 2.

⁶⁷ Utah regional haze SIP submission at 178.

⁶⁸ The four-factor analyses for this facility are contained in the Utah regional haze SIP submission at 134–138, 179, and appendices C.2.A and C.2.C.

Table 4. Graymont Cricket Mountain SO₂ Emissions Data and SO₂-specific Q/d Values for Capitol Reef National Park

Year	SO ₂ Emissions (tpy)	SO ₂ Q/d
2008	36.72	0.28
2009	15.36	0.12
2010	15.36	0.12
2011	23.60	0.18
2012	45.81	0.35
2013	61.01	0.47
2014	40.80	0.31
2015	20.46	0.16
2016	22.32	0.17
2017	17.51	0.13
2018	26.02	0.20
2019	30.45	0.23
2020	10.40	0.08
2021	7.44	0.06
2022	17.12	0.13

Graymont identified several potential NO_x control technologies for the Cricket Mountain Plant. It conducted a four-factor analysis for SNCR, although it considered that technology to be

infeasible at the facility. Utah requested that Graymont also consider two additional control options: fuel switching (use of alternative fuels instead of coal) and alternative

production techniques (use of vertical lime kilns instead of long horizontal kilns). The results of Graymont's analysis are shown in table 5.

Table 5. Graymont Cricket Mountain Plant: Summary of Four-Factor Analysis Controls

Graymont Cricket Mountain Plant: Four-Factor Analysis Control Options Considered					
Unit	Control Option	Pollutant	Technically Feasible	Emissions Reduction (tpy) ¹	Cost Effectiveness (\$/ton) ¹
Kilns 1-5	Reduce Peak Flame Zone Temperature	NO _x	No	N/A	N/A
Kilns 1-5	Low NO _x Burners	NO _x	Yes (already installed)	N/A	N/A
Kilns 1-5	Proper Kiln Operation	NO _x	Yes (already operating)	N/A	N/A
Kilns 1-5	Preheater Kiln Design	NO _x	Yes (already operating)	N/A	N/A
Kilns 1-5	SCR	NO _x	No	N/A	N/A
Kiln 1	SNCR	NO _x	No	13.7	\$19,519
Kiln 2	SNCR	NO _x	No	22.8	\$14,130
Kiln 3	SNCR	NO _x	No	10.2	\$24,191
Kiln 4	SNCR	NO _x	No	14.6	\$18,695
Kiln 5	SNCR	NO _x	No	70.6	\$11,270
Kilns 1-5	Alternative Fuels	NO _x	No	N/A	N/A
Kilns 1-5	Vertical Kiln Technology	NO _x	No	N/A	N/A

¹ Emissions reductions and cost-effectiveness values for SNCR are based on table 2 in appendix C.2.C of the Utah regional haze SIP submission.

Utah identified several errors with Graymont's analysis and requested that it further evaluate SNCR. Graymont submitted additional analyses to support its contention that SNCR is not cost-effective or technically feasible due to potential proprietary costs and associated cost per ton.⁶⁹ Graymont also found that fuel switching to natural gas would not be feasible, as natural gas with the Btu values required for lime production is not currently available to the facility and would require construction of extensive infrastructure and process modifications to connect to the nearest natural gas pipeline. Finally, Graymont found replacement of its

existing kilns with vertical lime kilns to be infeasible because it would require demolition of the existing kilns and plant infrastructure and construction of a new plant.

Utah ultimately concluded that additional controls are not required for reasonable progress at the Cricket Mountain Plant based on their cost/ton and the potential proprietary costs of SNCR technology for the kilns. The State determined that the facility's existing control measures and emissions limits are necessary for reasonable progress during the second implementation period.⁷⁰

iii. PacifiCorp Hunter and PacifiCorp Huntington⁷¹

Utah selected two electric generating units (EGUs) operated by PacifiCorp for four-factor analysis: PacifiCorp Hunter and PacifiCorp Huntington. Hunter is a 1,455 megawatt (MW) coal-fired steam EGU consisting of three units. It is located near Castle Dale in Emery County, Utah. Hunter has a combined Q/d value of 216.1, and the nearest Class I area is Capitol Reef National Park at 74.9 kilometers away. Huntington is a 960 MW coal-fired steam EGU consisting of two units. It is located in

⁶⁹ Utah regional haze SIP submission at 137–48 and appendix C.2.C.

⁷⁰ Utah regional haze SIP submission at 179.

⁷¹ The four-factor analyses for these facilities are contained in the Utah regional haze SIP submission at 138–164, 179, and appendices C.3.A, C.3.C, and C.3.D.

Huntington, Utah. Huntington has a combined Q/d value of 105.5, and the nearest Class I area is Capitol Reef National Park at 95.8 kilometers away. Although Hunter and Huntington are entirely separate facilities, Utah's regional haze SIP submission and PacifiCorp's supporting documentation analyzed Hunter and Huntington alongside each other. Therefore, we address these two facilities together in this document.

Both Hunter and Huntington operate existing emissions controls, although neither have post-combustion NO_x controls. Hunter Units 1 and 2 are equipped with LNB/separated overfire air (SOFA) for NO_x control, baghouses for PM control, and wet flue-gas desulfurization (FGD) scrubbers for SO₂ control. Hunter Unit 3 has LNB/SOFA for NO_x control, baghouse for PM control, and FGD scrubber for SO₂ control. Huntington Units 1 and 2 have LNB/SOFA for NO_x control, fabric filter baghouses for PM control, and FGD scrubbers for SO₂ control.

In its four-factor analyses for NO_x controls⁷² at the two facilities, PacifiCorp evaluated three options: SCR, SNCR, and "Reasonable Progress Emission Limits" (RPELs). PacifiCorp's proposed RPELs were plantwide (*i.e.*, not unit-specific) combined (NO_x+SO₂) annual emission limits that PacifiCorp proposed to replace the facilities'

permitted existing plantwide applicability limits (PALs), which feature separate PALs for NO_x and SO₂. PacifiCorp proposed an RPEL of 17,773 tpy for Hunter and an RPEL of 10,491 tpy for Huntington. It asserted that these RPELs would reduce emissions compared to the plants' most restrictive existing permits.

Based on its calculated cost/ton values for all three control options, PacifiCorp argued that SCR and SNCR at Hunter and Huntington were not cost-effective. It urged Utah to select the RPELs for inclusion in the State's long-term strategy based on a balance of the four statutory factors.

Utah identified several deficiencies in PacifiCorp's cost calculations and requested that PacifiCorp "expand its analysis of mitigating factors, excessive capital costs, alternative solutions, and other costs in order to justify the removal of either SNCR and/or SCR as viable control options."⁷³ Utah also determined that PacifiCorp's proposed RPELs were "lacking" because they would not achieve any actual reductions in emissions given that the facilities have consistently operated well below their permitted PALs.⁷⁴ Following PacifiCorp's submission of additional information, Utah rejected the proposed RPELs, concluding they could not be effectively compared against the cost/

ton values for physical controls (SNCR and SCR).

PacifiCorp provided updated cost/ton values for SCR and SNCR at Hunter and Huntington, which Utah accepted. Depending on the unit, those values ranged from \$5,417/ton to \$6,579/ton for SNCR and \$4,401/ton to \$6,533/ton for SCR,⁷⁵ as shown in tables 6 and 7. PacifiCorp's cost/ton calculations were based on the plants' average utilization levels (in the form of the units' heat input, expressed as million British thermal units (MMBtu)/year) during the 2015–2019 period.⁷⁶ To determine cost/ton values for SNCR and SCR, PacifiCorp first multiplied heat inputs for each unit by an emission rate (which varied based on the SCR, SNCR, and "no additional controls" scenarios) to calculate each unit's emission levels under the three control scenarios. Each control scenario yielded a different level of NO_x emissions. The total annual cost of each control was then divided by its associated emission reductions (in tons/year) to arrive at a cost-effectiveness metric of dollars per ton of NO_x emissions reduced for each unit at the plants. Tables 6 and 7 also show the NO_x emissions reductions that SNCR and SCR post-combustion controls would achieve relative to the plants' average actual emissions during the 2015–2019 period.⁷⁷

Table 6. NO_x Post-Combustion Control Cost-Effectiveness at Hunter

Hunter: Control Cost-Effectiveness and NO _x Removal (tpy) for SNCR and SCR					
Unit	SNCR and SCR Baseline Emissions Assumption ¹	Tons NO _x Removed (SNCR) ²	SNCR \$/ton	Tons NO _x Removed (SCR) ²	SCR \$/ton
Unit 1	2,842	568	\$6,536	2,130	\$6,533
Unit 2	2,902	580	\$6,469	2,149	\$6,488
Unit 3	4,359	872	\$5,417	3,579	\$4,401
Total	10,103	2,020	-	7,858	-

¹ 2015–2019 average actual emissions. See 2021-08-31 PAC Response Att B.xlsx in the docket for this action.

² Relative to 2015–2019 average actual emissions.

⁷² Aside from the RPELs, PacifiCorp did not evaluate any additional SO₂ controls on the basis that the units are already effectively controlled. Utah ultimately agreed with that conclusion.

⁷³ Utah regional haze SIP submission, appendix C.3.B. at 8.

⁷⁴ *Id.* at 9.

⁷⁵ Utah regional haze SIP submission at 147; appendix C.3.C., attachment B.

⁷⁶ Utah regional haze SIP submission at 147.

⁷⁷ To calculate the NO_x emissions reductions, we consulted appendix C.3.C. of Utah's regional haze SIP submission. We determined the tons of NO_x removed shown in tables 6 and 7 by subtracting

each unit's NO_x emissions (in tons per year) listed in the "SNCR Emissions" and "SCR Emissions" tables in Attachment B in appendix C.3.C. from the corresponding units' NO_x emissions (in tons per year) listed in the "SNCR and SCR Baseline Emissions" table in Attachment B.

Table 7. NO_x Post-Combustion Control Cost-Effectiveness at Huntington

Huntington: Control Cost-Effectiveness and NO _x Removal (tpy) for SNCR and SCR					
Unit	SNCR and SCR Baseline Emissions Assumption ¹	Tons NO _x Removed (SNCR) ²	SNCR \$/ton	Tons NO _x Removed (SCR) ²	SCR \$/ton
Unit 1	2,968	594	\$6,431	2,266	\$5,979
Unit 2	2,825	565	\$6,579	2,146	\$6,294
Total	5,793	1,159	-	4,412	-

¹ 2015-2019 average actual emissions. See 2021-08-31 PAC Response Att B.xlsx in the docket for this action.

² Relative to 2015-2019 average actual emissions.

Although it accepted PacifiCorp's updated cost/ton calculations, Utah did not proceed to evaluate SCR and SNCR with reference to those costs of compliance and the other three statutory factors. Rather, Utah elected to further analyze the cost/ton values by predicting how changes in future plant utilization at Hunter and Huntington might affect the cost-effectiveness of SCR.⁷⁸ Utah developed a sensitivity analysis to assess cost/ton values under three alternative plant utilization scenarios relative to utilization during the baseline period of 2015–2019: 50%, 75%, and 125% of baseline utilization. The cost/ton values were calculated by scaling 2015–2019 average heat input by those percentages. Utah's analysis showed that, all else equal, higher plant utilization produced lower cost/ton values (meaning that SCR was relatively more cost-effective), while lower utilization produced higher cost/ton values (meaning that SCR was relatively less cost-effective).

Utah observed that its sensitivity analysis “raises the question of how the units at both plants are likely to be utilized throughout the second regional haze planning period.”⁷⁹ To try to address that question, Utah consulted WRAP's projections of 2028 emissions for Hunter and Huntington that were developed through the WRAP planning process.⁸⁰ WRAP's projections of the

plants' 2028 emissions were very similar to the 2015–2019 average actual emissions that PacifiCorp used in its cost/ton calculations.⁸¹ WRAP's projections were based on 2016–2018 plant utilization levels.

After considering WRAP's 2028 emissions projections, Utah asserted that the electrical generating sector “is experiencing significant change” due to increases in natural gas and renewable energy generation, enhanced grid coordination, greater transmission capacity and planning efforts, improvements in equipment efficiency, uncertainty regarding climate regulation, and customer preferences for renewable energy.⁸² The State turned to PacifiCorp's 2021 Integrated Resource Plan (IRP)⁸³ to assess potential future operations at Hunter and Huntington. The IRP contains PacifiCorp's assessment of the “least-cost, least-risk portfolio” of resources while accounting for compliance with regulatory requirements and customer demand for clean energy. PacifiCorp completes the full IRP planning process every two years and reviews and updates it in the in-between years. While the IRP does not project future utilization at Hunter and Huntington (which PacifiCorp considers confidential information), Utah cited PacifiCorp's long-term (2021–2040) plans to increase renewable

energy generation and energy storage capacity, retire certain coal-fired units or convert them to natural gas, and utilize remaining coal-fired units to support growth in renewable energy generation by providing power when renewable generation is not available. Utah concluded there would be a “likely reduction in utilization of Hunter and Huntington in future years,” which would reduce the cost-effectiveness of SCR.⁸⁴

Utah also highlighted several “affordability” considerations regarding the installation of SCR at Hunter and Huntington.⁸⁵ It cited PacifiCorp's concerns about supply chain constraints, inflation, competition from renewable and storage resources, and the potential for public utility commissions to reject a future request by PacifiCorp to recover the costs of SCR. Utah maintained that a requirement to install SCR could create the potential for involuntary closure of Hunter and Huntington units, pointing to other coal-fired plants that PacifiCorp asserted had either retired or switched to a different fuel rather than installing SCR to control NO_x pollution. Finally, Utah noted that Deseret Power, a part-owner of Hunter Unit 2, had raised concerns about its ability to finance its portion of SCR costs under the terms of a debt forbearance agreement that restricts Deseret's ability to take on new debt. Utah concluded that “[t]hese affordability concerns and the potential for forced unit closures weigh in favor of considering reasonable alternatives to requiring the installation of physical controls.”⁸⁶

As a result of these potential affordability issues and its concerns that reduced future utilization of Hunter and Huntington would erode the cost-

⁷⁸ Utah focused its analysis on SCR and did not analyze SNCR in detail. SCR would achieve greater emissions reductions at a lower cost/ton value compared to SNCR.

⁷⁹ Utah regional haze SIP submission at 149.

⁸⁰ *Id.* at 149–50. WRAP relied on the Center for the New Energy Economy (CNEE) at Colorado State University to project 2028 emissions for coal- and gas-fired EGUs in Western states. Projections for coal-fired EGUs such as Hunter and Huntington were based on 2016–2018 plant utilization (in the form of gross load), heat rates, and emission rates; they also incorporated “on-the-books” controls such as the installation of emissions controls or plant closures. CNEE's analysis is contained in the

docket for this action. CNEE, “Project Report for WESTAR-WRAP: Analysis of EGU Emissions for Regional Haze Planning and Ozone Transport Contribution” (June 14, 2019).

⁸¹ Using the methodology developed by CNEE, WRAP projected 2028 NO_x emissions for Hunter (10,001 tpy) and Huntington (6,091 tpy). Utah explained that these emission projections are “similar though not identical to PacifiCorp's recent actual emissions used in its four-factor analyses, with the differences stemming from the use of different averaging periods and methodologies.” Utah regional haze SIP submission at 150.

⁸² Utah regional haze SIP submission at 150.

⁸³ PacifiCorp, “2021 Integrated Resource Plan” Vol. I (Sept. 1, 2021), available in the docket for this action (hereinafter “PacifiCorp 2021 IRP”).

⁸⁴ Utah regional haze SIP submission at 156.

⁸⁵ *Id.* at 154–56.

⁸⁶ *Id.* at 156.

effectiveness of SCR, Utah rejected SCR in favor of establishing mass-based annual emission limits for Hunter and Huntington. To provide compliance flexibility to PacifiCorp, Utah decided to apply these emission limits at a plantwide level, rather than a unit-by-unit level. Utah’s mass-based emission limits are shown in table 8 below and are similar in concept to the RPELs that were originally proposed by PacifiCorp. To set the limits, Utah calculated the

plant utilization and resulting emissions levels that would be associated with the installation of SCR at \$5,750/ton NO_x removed at all units of the plants; it then summed the unit-level allowable emissions for the three units at Hunter and the two units at Huntington to establish plantwide emissions limits for each plant. Although Utah stated that it was not establishing a bright-line cost-effectiveness threshold, it chose the \$5,750/ton level based on its

determination that \$5,750/ton for physical controls is not cost-effective when balancing all four statutory factors.⁸⁷ Utah stated that the plantwide mass-based emission limits will prevent Hunter and Huntington from operating at levels above which SCR would have been cost-effective. Finally, to provide additional compliance flexibility, Utah established initial, interim, and final limits that become more stringent over time, as shown in table 8.

Table 8. Hunter and Huntington Mass-Based Emission Limits

Mass-Based Emission Limit	Hunter Allowable NO _x Emissions (tpy)	Huntington Allowable NO _x Emissions (tpy)
2022 Initial Limit	11,041	6,604
2025 Interim Limit	10,442	6,422
2028 Final Limit	9,843	6,240

Although the mass-based emission limits do not require any reductions in NO_x emissions from Hunter and Huntington compared to their recent actual (2014–2019) emissions, Utah noted that they would prevent the plants from “backsliding.”⁸⁸ Utah also stated that the limits would result in emissions levels that are “generally consistent” with those that WRAP used in its 2028 modeling.⁸⁹

The mass-based emission limits apply on an annual basis (12-month rolling total),⁹⁰ meaning that Hunter and Huntington may vary their plantwide emissions over the course of a 12-month period so long as they do not emit more than the total allowable amount of NO_x. Utah acknowledged that the variations allowed under annual limits could potentially exacerbate visibility impairment on the most impaired days at Class I areas. Utah observed that the worst nitrate impairment at Class I areas in Utah occurs during the winter. Hunter and Huntington have two operating peaks (with associated peaks in NO_x emissions) each year: a summer peak and a winter peak. Utah concluded that the plants were unlikely to consume the majority of their annual NO_x emissions limit in the winter because they must preserve their ability to operate at peak loads in the summer. Thus, Utah concluded that annual limits were “sufficient to reduce the likelihood

of excess emissions impact [at Class I areas] during periods of high electricity demand.”⁹¹

Utah also explained that the other three statutory factors supported its decision to adopt the mass-based emission limits instead of an SCR-based requirement. As to the time necessary for compliance, Utah stated that SCR likely could not be installed during the time remaining in the second implementation period, while the mass-based emission limits could be implemented immediately after approval of the SIP submission. For energy and non-air quality environmental impacts of SCR, Utah pointed to potential increases in water and coal consumption, increased generation of coal combustion residuals and other waste products, and increased greenhouse gas emissions from the additional energy needed to operate SCR. Utah also noted that because Hunter and Huntington are “projected to assist in the transition towards intermittent renewable resources,” early plant closures would require the provision of alternative resources.⁹² As to remaining useful life, Utah pointed to the then-planned (but not federally enforceable) closure of Hunter by 2042 and Huntington by 2036, which would occur before the expiration of the 30-year useful life of SCR. Utah noted that

reduced amortization periods for SCR would reduce its cost-effectiveness.

In sum, Utah determined that physical controls to reduce NO_x (*i.e.*, SCR) at Hunter and Huntington are not necessary to make reasonable progress in the second implementation period.⁹³ It concluded that the enforceable mass-based annual emission limits, as well as Hunter and Huntington’s existing control measures and emission limits (namely, SO₂ emission limits in the plants’ title V permits), are necessary to make reasonable progress.⁹⁴

iv. Sunnyside Cogeneration⁹⁵

The Sunnyside Cogeneration Facility is a single unit 58 MW waste-coal combustion boiler located in Sunnyside, Utah. The facility has a combined Q/d value of 15.2; the nearest Class I area is Arches National Park at 97 kilometers away. Sunnyside utilizes a circulating fluidized bed (CFB) boiler that injects limestone in situ with the fuel stock, so that combustion of the fluidized fuel achieves some reduction in SO₂ emissions. A baghouse controls for flue gas particulates.

Sunnyside identified several potential add-on NO_x and SO₂ control technologies for the boiler unit and performed a four-factor analysis for the technologies it determined to be technically feasible.⁹⁶ Utah identified multiple errors related to Sunnyside’s

⁸⁷ *Id.* at 157, 160–61.

⁸⁸ *Id.* at 163, appendix H at 656.

⁸⁹ Utah regional haze SIP submission at 162–63.

⁹⁰ Utah regional haze SIP submission, appendix A, part H.23.d.-e.

⁹¹ Utah regional haze SIP submission at 162.

⁹² *Id.* at 157.

⁹³ *Id.*

⁹⁴ *Id.* at 179.

⁹⁵ The four-factor analysis for this facility is contained in the Utah regional haze SIP submission at 164–69, 179, and appendices C.4.A. and C.4.C.

Additional submissions from Sunnyside that relate to Utah’s determination of the measures necessary to make reasonable progress are also contained in the docket for this action.

⁹⁶ Utah regional haze SIP submission, appendix C.4.A.

evaluation of technical feasibility and costs of compliance and requested that Sunnyside resubmit a corrected four-factor analysis.⁹⁷ Sunnyside submitted

an updated four-factor analysis in October 2021, followed by several submissions in 2022 to respond to issues raised by the FLMs and public

commenters. The results of Sunnyside's analyses are shown in table 9.

Table 9. Sunnyside Cogeneration Facility: Summary of Four-Factor Analysis Controls

Sunnyside Cogeneration: Four-Factor Analysis Control Options Considered					
Unit	Control Option	Pollutant	Technically Feasible	Emissions Reduction (tpy)	Cost Effectiveness (\$/ton)
Boiler	Spray Dry Absorbers	SO ₂	No	N/A	N/A
Boiler	Dry Scrubbing	SO ₂	Yes (initial analysis); No (subsequent analysis)	319	\$10,202 ¹
Boiler	Wet Scrubbing	SO ₂	No	N/A	N/A
Boiler	(Hydrated Ash Reinjection)	SO ₂	No	N/A	N/A
Boiler	Circulating Dry Scrubber/ Circulating Fluidized Bed Scrubber	SO ₂	Yes	319	\$27,890 (minimum) \$68,027 (average) \$118,553 (maximum) ²
Boiler	SCR	NO _x	Yes	432	\$13,445
Boiler	SNCR	NO _x	Yes	64	\$9,268

¹ Page 5-6 of appendix C.4.A of the regional haze SIP submission lists a cost/ton value of \$10,202, while page 5-5 lists \$10,372.

² Sunnyside prepared three alternative cost analyses for circulating dry scrubber/circulating fluidized bed scrubber based on minimum, average, and maximum total installed equipment costs. Utah regional haze SIP submission, appendix D.2.I.

Utah ultimately concurred with Sunnyside's conclusion, based on the costs of compliance and effectiveness of existing controls, that additional NO_x or SO₂ controls are not necessary to make reasonable progress. Utah determined that the existing control measures and emissions limits for Sunnyside are necessary for reasonable progress during the second implementation period.⁹⁸

v. US Magnesium ⁹⁹

US Magnesium LLC's Rowley Plant is a magnesium production facility located in Rowley, Utah, west of Salt Lake City. The facility has a combined Q/d value of 7.4; the nearest Class I area is Capitol Reef National Park at 288.7 kilometers away. US Magnesium has multiple units that emit NO_x as a result of fuel combustion. Existing controls at US

Magnesium are primarily related to the chlorine reduction burner and associated acid gas scrubbing.

Given the facility's low SO₂ emissions, US Magnesium did not conduct a four-factor analysis for SO₂ controls. The facility's SO₂ specific Q/d values for Capitol Reef National Park and emissions data are shown in table 10.

BILLING CODE 6560-50-P

⁹⁷ Utah regional haze SIP submission, appendix C.4.B at 15–19.

⁹⁸ Utah regional haze SIP submission at 179.

⁹⁹ The four-factor analyses for this facility are contained in the Utah regional haze SIP submission

at 169–72, 179–80, and appendices C.5.A. and C.5.C.

Table 10. US Magnesium SO₂ Emissions Data and SO₂-specific Q/d Values for Capitol Reef National Park

Year	SO ₂ Emissions (tpy)	SO ₂ Q/d
2008	25.47	0.09
2009	32.16	0.11
2010	32.16	0.11
2011	19.12	0.07
2012	22.94	0.08
2013	23.80	0.08
2014	17.93	0.06
2015	25.82	0.09
2016	18.60	0.06
2017	6.71	0.02
2018	9.23	0.03
2019	11.18	0.04
2020	8.83	0.03
2021	8.94	0.03
2022	8.13	0.03

US Magnesium identified several potential NO_x control technologies for the facility and conducted a four-factor analysis for each control that it found to be technically feasible. The results of these analyses are shown in table 11.

Table 11. US Magnesium: Summary of Four-Factor Analysis Controls

US Magnesium: Four-Factor Analysis Control Options Considered					
Unit	Control Option	Pollutant	Technically Feasible	Emissions Reduction (tpy)	Cost Effectiveness (\$/ton)
Turbines and Duct Burners	Water or Steam Injection	NO _x	No	N/A	N/A
Turbines and Duct Burners	Dry Low-NO _x	NO _x	No	N/A	N/A
Turbines and Duct Burners	SCR	NO _x	No	N/A	N/A
Chlorine Reduction Burner	N/A	NO _x	N/A	N/A	N/A
Riley Boiler	FGR ¹	NO _x	Yes	22.5	\$1,880
Riley Boiler	Low-NO _x Burners	NO _x	No	N/A	N/A
Riley Boiler	Ultra Low-NO _x Burners	NO _x	No	N/A	N/A
Riley Boiler	SCR ¹	NO _x	Yes	40.7	\$18,800
Riley Boiler	SNCR	NO _x	No	N/A	N/A
Diesel Engines	Exhaust Gas Recirculation	NO _x	Yes	28.8	\$20,833
Diesel Engines	SCR	NO _x	Yes	68.1	\$14,146
Diesel Engines	Lean NO _x Catalysts	NO _x	No	N/A	N/A
HCl Plant	Water or Steam Injection	NO _x	No	N/A	N/A
HCl Plant	Dry Low-NO _x	NO _x	No	N/A	N/A
HCl Plant	SCR	NO _x	No	N/A	N/A
Casting House	N/A	NO _x	N/A	N/A	N/A

Lithium Plant ²	Low-NO _x Burners	NO _x	Yes (already installed)	13.64 (50 MMBtu/hr burner) 24.91 (100 MMBtu/hr burner)	\$8,373 (50 MMBtu/hr burner) \$6,536 (100 MMBtu/hr burner)
Lithium Plant	Ultra Low-NO _x Burners	NO _x	No	N/A	N/A

¹ The emissions reduction and cost-effectiveness values for flue gas recirculation (FGR) and SCR on the Riley Boiler that are shown in the table were calculated by Utah following its identification of errors in US Magnesium's cost analyses.

² The Lithium Plant was constructed recently and concluded the permitting process in 2020. It consists of two boilers and two evaporative burners. In lieu of submitting a standalone four-factor analysis for these units, US Magnesium submitted the NO_x BACT analysis that was performed for the boilers and burners. Utah agreed that the Lithium Plant is well-controlled and did not require further evaluation.

BILLING CODE 6560-50-C

Utah identified multiple errors related to US Magnesium's cost calculations, particularly for the Riley boiler, and requested a corrected analysis. US Magnesium responded that it had conducted a reevaluation of the Riley boiler and believed that the cost/ton numbers for FGR and SNCR were higher than the values Utah had calculated, pointing to (1) overestimated NO_x emissions and (2) the presence of an existing low-NO_x burner on the boiler. However, US Magnesium did not submit supporting information on the low-NO_x burner or its NO_x removal efficacy, and Utah had no record of its existence. Thus, Utah concluded that FGR was a cost-effective and viable control for the Riley boiler. Utah also determined that the existing control measures and emissions limits for US Magnesium are necessary for reasonable progress during the second implementation period.

2. The EPA's Evaluation of Utah's Long-Term Strategy

The EPA must exercise its independent technical judgment in evaluating the adequacy of Utah's long-term strategy, including the sufficiency of the underlying methodology and documentation; we may not approve a SIP that is based on unreasoned analysis or that lacks foundation in the CAA's requirements.¹⁰⁰ As detailed in sections IV.C.2.a-d. of this document, we find that Utah's long-term strategy does not satisfy the requirements of CAA section 169A and 40 CFR 51.308(f)(2) on four

separate grounds: (1) Utah unreasonably rejected NO_x emission reduction measures at Hunter and Huntington power plants; (2) Utah did not evaluate whether emission reduction measures at CCI Paradox Lisbon Natural Gas Plant are necessary for reasonable progress; (3) Utah improperly included automatic exemptions for startup, shutdown, and malfunction (SSM) in the emission limitations for Intermountain power plant; and (4) Utah unreasonably rejected SO₂ emission reduction measures and incorporated an unsupported emission limitation into its SIP for Sunnyside Cogeneration. For these reasons, we find that Utah did not adequately "evaluate and determine the emission reduction measures that are necessary to make reasonable progress" by considering the four statutory factors, as required by CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i), and did not adequately "document the technical basis, including modeling, monitoring, cost, engineering, and emissions information, on which the State is relying to determine the emission reduction measures that are necessary to make reasonable progress," as required by 40 CFR 51.308(f)(2)(iii). Therefore, we are proposing to disapprove Utah's long-term strategy for the second implementation period under CAA section 169A and 40 CFR 51.308(f)(2) because it does not include the enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress.¹⁰¹

a. Unreasonable Rejection of NO_x Emission Reduction Measures at Hunter and Huntington

Based on its evaluation of the four statutory factors, Utah concluded that SCR or other physical NO_x pollution controls at Hunter and Huntington are not necessary to achieve reasonable progress toward Congress's national visibility goal.¹⁰² Instead, Utah chose to establish plantwide annual mass-based NO_x emission limits for inclusion in its long-term strategy.¹⁰³ To provide a "compliance glidepath," Utah established initial limits of 11,041 tpy of NO_x at Hunter and 6,604 tpy of NO_x at Huntington for 2022, interim limits of 10,442 tpy of NO_x at Hunter and 6,422 tpy of NO_x at Huntington for 2025, and final limits of 9,843 tpy of NO_x at Hunter and 6,240 tpy of NO_x at Huntington for 2028.¹⁰⁴

Utah's determination to impose plantwide annual mass-based emission limits will not secure any reduction in NO_x emissions from Hunter and Huntington.¹⁰⁵ Tables 12–13 and figures 2–3 of this document compare annual emissions levels allowed under the plantwide annual mass-based emission limits to Hunter and Huntington's recent actual (2014–2021) emissions and to WRAP's projections of the plants'

of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal, . . . including . . . a long-term . . . strategy for making reasonable progress[.]."

¹⁰² Utah regional haze SIP submission at 157.

¹⁰³ Utah proposed to include these limits in its SIP at section IX, part H.23.d.–e.

¹⁰⁴ Utah regional haze SIP submission at 158.

¹⁰⁵ Utah regional haze SIP submission at 163 (noting that the limits are generally consistent with WRAP's projections of 2028 emissions for the "on-the-books" scenario and will prevent the plants from "backsliding").

¹⁰⁰ See *Wyoming v. EPA*, 78 F.4th 1171, 1180–81 (10th Cir. 2023); *Oklahoma v. EPA*, 723 F.3d 1201 (10th Cir. 2013); *Arizona v. EPA*, 815 F.3d 519, 530–32 (9th Cir. 2016); *North Dakota v. EPA*, 730 F.3d 750, 760–61 (8th Cir. 2013).

¹⁰¹ See also CAA section 169A(b)(2), section 169(b)(2)(B) (the CAA requires that each implementation plan for a State in which the emissions from may reasonably be anticipated to cause or contribute to visibility impairment in a Class I area "contain such emission limits, schedules

2028 emissions under the 2028OTBa2 “on-the-books” (no additional controls) scenario. Table 12 shows that Utah’s most stringent mass-based emission limits (the 2028 final limits) will result

¹⁰⁶ WRAP’s 2028OTBa2 emissions inventory includes emissions from the “EGU” and “non-EGU” components at Hunter and Huntington. Utah did not specify whether the mass-based emission limits contained in appendix A, part H.23.d.-e. include non-EGU emissions from the power plants; based on our interpretation of part H.23.d.-e., we understand them not to incorporate non-EGU emissions. Therefore, our calculation of the net increase in emissions of 8 tpy accounts for only the “EGU” component emissions in WRAP’s 2028OTBa2 inventory.

WRAP projected 2028 non-EGU emissions of 9 tpy for Hunter and 8 tpy for Huntington. See *WRAP_2028OTBa2_and_RepBase2_Point_Emissions_after_states_review_17Aug2021.xlsx* in

in a net *increase* in NO_x emissions of 8 tpy from Hunter and Huntington combined, compared to WRAP’s projected 2028 emissions.¹⁰⁶ Table 13 and figures 2–3 show that both power plants’ recent actual (2014–2021) NO_x emissions were, in many years, lower than the initial, interim, and/or final

the docket for this action. If we accounted for the non-EGU emissions in our comparison of the mass-based emission limits to WRAP’s 2028OTBa2 projected inventory, the mass-based emission limits would result in a net 9 tpy decrease in emissions from Hunter and Huntington combined. Given the similarity between +8 tpy and –9 tpy, and the fact that a decrease of just 9 tpy (0.06% of the power plants’ projected 2028 emissions) would not represent any real reduction in emissions, the inclusion of non-EGU emissions in our calculations would not affect the analysis or conclusions contained in this notice of proposed rulemaking.

mass-based emission limits. In stark contrast to the mass-based emission limits, installation of SCR would reduce annual NO_x emissions by 7,858 tpy across all three units at Hunter and 4,412 tpy across the two units at Huntington (compared to 2015–2019 average actual emissions),¹⁰⁷ as shown in tables 6–7 of this document.

BILLING CODE 6560–50–P

¹⁰⁷ The record does not contain information on the exact amount of NO_x emissions reductions that installation of SCR at Hunter and Huntington would achieve relative to WRAP’s projected 2028 emissions for those plants. However, Hunter and Huntington’s 2015–2019 average actual emissions and WRAP’s projected 2028 emissions are very similar, as shown in table 13. Therefore, we can reasonably conclude that the relative emissions reductions would be comparable in magnitude.

Table 12. 2028 Final NO_x Plantwide Mass-Based Emission Limit Net Change Relative to 2028OTBa2 Projected Emissions

Source	2028 Final NO _x Mass-Based Emission Limit	2028OTBa2 Projected NO _x Emissions ¹	Net Change NO _x Emissions (tpy)
Hunter	9,843	9,992	-149
Huntington	6,240	6,083	+157
Total	16,083	16,075	+8

¹ 2028OTBa2 projected NO_x emissions reported in this table include only the “EGU” component emissions.

Table 13. Recent Annual Actual NO_x Emissions at Hunter and Huntington, Utah’s Plantwide Annual Mass-Based Emission Limits, and WRAP’s 2028OTBa2 Emissions Inventory Projections

Year, Limit, or Projection	Plantwide Total NO _x Emissions (tpy)	
	Hunter	Huntington
2014 Actual Emissions	11,595	6,864
2015 Actual Emissions	11,591	6,462
2016 Actual Emissions	8,869	6,210
2017 Actual Emissions	9,773	5,931
2018 Actual Emissions	9,770	5,153
2019 Actual Emissions	10,514	5,206
2015-2019 Average Actual Emissions (used in PacifiCorp cost analysis) ¹	10,103	5,793
2020 Actual Emissions	9,287	4,814
2021 Actual Emissions	11,041	6,604
2022 Initial Limit	11,041	6,604
2025 Interim Limit	10,442	6,422
2028 Final Limit	9,843	6,240
WRAP 2028OTBa2 Emissions Projection ²	9,992	6,083

¹ We determined 2015-2019 average actual emissions by consulting appendix C.3.C. of Utah’s regional haze SIP submission. 2015-2019 average actual NO_x emissions (in tons per year) for each unit are listed in the “SNCR and SCR Baseline Emissions” table in Attachment B of appendix C.3.C. These same annual unit-level NO_x emissions relied upon by PacifiCorp are also available at the EPA’s Clean Air Market Program Data (CAMPD) by querying unit-level annual emissions for Hunter and Huntington. Summing the unit level to the facility and averaging over the same period provides the same NO_x emissions values. The CAMPD data is available in the docket for this action.

² 2028OTBa2 projected NO_x emissions reported in this table include only the “EGU” component emissions.

Figure 2. Annual Actual NO_x Emissions at Hunter Compared to Utah’s Plantwide Mass-Based Emission Limits and 2028OTBa2 Projected Emissions ¹⁰⁸

¹⁰⁸ Data source: EPA CAMPD as reported by Utah and PacifiCorp, available in the docket for this action.

Figure 2. Annual Actual NO_x Emissions at Hunter Compared to Utah's Plantwide Mass-Based Emission Limits and 2028OTBa2 Projected Emissions¹⁰⁸

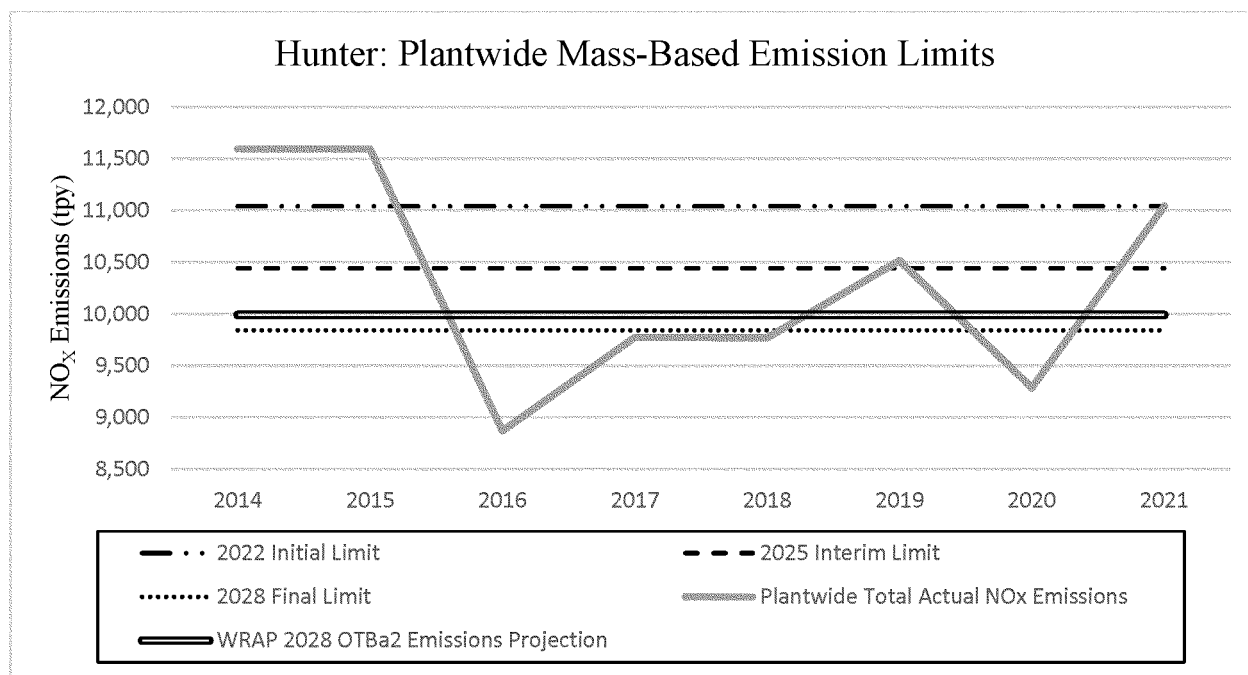
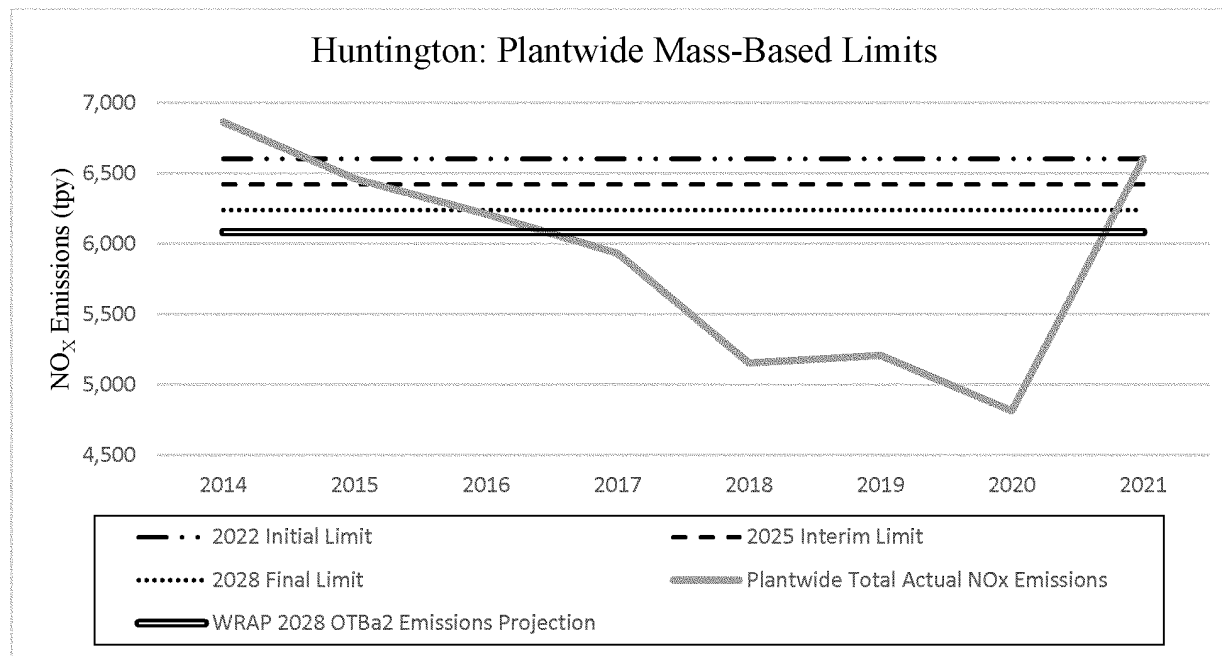


Figure 3. Annual Actual NO_x emissions at Huntington Compared to Utah's Plantwide Mass-Based Emission

Limits and 2028OTBa2 Projected Emissions¹⁰⁹

Figure 3. Annual Actual NO_x emissions at Huntington Compared to Utah's Plantwide Mass-Based Emission Limits and 2028OTBa2 Projected Emissions¹⁰⁹



¹⁰⁹ *Id.*

Huntington in particular, on visibility impairment at all five of Utah's Class I areas and at numerous out-of-state Class I areas. In the following paragraphs of this document, we summarize key points that are further detailed in the TSD.

Utah relied on and referenced data from WRAP's TSS, which includes analytical tools and products that WRAP developed to assist WRAP member states in developing their regional haze SIPs.¹¹⁰ Among other analyses, WRAP performed photochemical source apportionment modeling for 2028 using the Comprehensive Air Quality Model with extensions (CAMx) model to estimate the statewide visibility impacts for each WRAP state to Class I areas on the 20% most impaired days. This modeling also included a more detailed breakout of state-by-state sulfate and nitrate contributions for five separate emissions source categories (EGUs, mobile sources, non-EGU point sources, oil and gas, and all other remaining anthropogenic sources combined). As part of our evaluation of Utah's regional haze SIP submission, the EPA examined the results of the WRAP products, including the emissions inventories, Q/d analyses, weighted emissions potential (WEP) analyses, and source apportionment modeling. This data provides quantitative results of the sulfate and nitrate Class I area visibility impacts from EGUs in Utah. We also used this data to estimate the visibility impairment impacts at Class I areas from Hunter power plant, Huntington power plant, and both plants combined.

The WRAP 2028 projected emissions inventories show that Utah NO_x and SO₂ emissions are highly influenced by Hunter and Huntington power plants.¹¹¹ Of all 2028 projected statewide anthropogenic NO_x and SO₂ emissions, from every anthropogenic source in Utah, Hunter is projected to account for 11.41% of NO_x and 25.56% of SO₂ emissions; Huntington is projected to account for 6.94% of NO_x and 17.89% of SO₂ emissions; and Hunter and Huntington combined are projected to account for 18.35% of NO_x and 43.45% of SO₂ emissions.

Comparing the NO_x and SO₂ emission contributions of Hunter and Huntington to just the Utah EGU source category shows even higher projected

contributions. Of all statewide EGU NO_x and SO₂ emissions from every EGU source located in Utah for 2028,¹¹² Hunter is projected to account for 41.9% of NO_x and 35.45% of SO₂ emissions; Huntington is projected to account for 25.51% of NO_x and 24.81% of SO₂ emissions; and Hunter and Huntington combined are projected to account for 67.41% of NO_x and 60.26% of SO₂ emissions.

WRAP's 2028 projected emissions inventories include emissions from Bonanza power plant, which is on Tribal land and is not subject to Utah's regulatory jurisdiction, and Kennecott power plant, which has been retired. Removing Bonanza and Kennecott's NO_x and SO₂ emissions contributions from the 2028 projected statewide totals of anthropogenic NO_x and SO₂ emissions indicates even higher contributions from Hunter and Huntington. Hunter is projected to account for 58.87% of all EGU source category NO_x and 54.37% of all EGU source category SO₂ emissions; Huntington is projected to account for 35.84% of all EGU source category NO_x and 38.06% of all EGU source category SO₂ emissions; and Hunter and Huntington combined are projected to account for 94.7% of all EGU source category NO_x emissions and 92.43% of all EGU source category SO₂ emissions. In other words, Hunter and Huntington account for more than 90% of the EGU source category emissions that are subject to Utah's regulatory jurisdiction under the regional haze program.

Hunter and Huntington's NO_x emissions are significant on a national scale. Hunter ranked as the third highest emitter of NO_x for all EGUs within the United States in 2021 and as the fifth highest emitter of NO_x for all EGUs within the United States in 2022. Huntington ranked 20th in 2021 and 29th in 2022 for NO_x emissions among all EGUs in the United States.

WRAP's Q/d analyses¹¹³ show that Hunter and Huntington have, by far, the highest Q/d values for Utah's five Class I areas of all the sources that Utah selected for four-factor analysis.¹¹⁴

¹¹² Section II of the TSD contains detailed information on emissions from EGU sources in Utah. WRAP's 2028OTBa2 projected emissions inventory indicates that of the 16 currently operating EGU sources that are subject to Utah's regulatory jurisdiction, Hunter and Huntington power plants' combined NO_x emissions of 16,075 tpy far exceed the total combined NO_x emissions of 894 tpy from the 14 other EGU sources.

¹¹³ Utah employed Q/d analysis to "[determine] which sources have the highest potential impact on Utah's [Class I areas]." Utah regional haze SIP submission at 81.

¹¹⁴ See the TSD at section IV, Q/d Analysis of Utah Sources, for detailed information.

Specifically, Hunter has the highest Q/d values and Huntington has the second-highest Q/d values for all Utah Class I areas. For out-of-state Class I areas, Hunter and Huntington also have the highest Q/d values among the sources Utah selected for four-factor analysis.

In addition, due to source decommissionings, enforceable retirements, and requirements to install NO_x post-combustion controls, many of the in-state and out-of-state sources that had the highest Q/d values for Utah's five Class I areas (based on 2014 emissions data, which WRAP used to calculate Q/d values in its analysis) will no longer be major contributors to visibility impairment in the second implementation period. If the Q/d values were updated to reflect these sources' resulting lower emissions, Hunter and Huntington would rank even higher among all sources nationwide with the highest potential impact (in terms of Q/d value) on Utah's Class I areas.

In addition, WRAP's nitrate and sulfate WEP analyses identified Hunter and Huntington as significant emissions sources located upwind of several in-state and out-of-state Class I areas.¹¹⁵ Among all in-state and out-of-state point sources, WRAP's nitrate WEP results classify Hunter as the top-ranked source for Arches National Park, Bryce Canyon National Park, Canyonlands National Park, and Capitol Reef National Park; and the second-ranked source for Zion National Park. Similarly, WRAP's nitrate WEP results classify Huntington as the second-ranked source for Arches National Park, Bryce Canyon National Park, Canyonlands National Park, and Capitol Reef National Park; and the eighth-ranked source for Zion National Park. Considering only the sources that Utah selected for four-factor analysis, Hunter and Huntington have the highest nitrate WEP values for each of Utah's five Class I areas. Furthermore, WRAP's sulfate WEP results for Utah's five Class I areas show that Hunter and Huntington are the top two ranked sources for many of Utah's Class I areas; they also have the highest sulfate WEP values among all sources that Utah selected for four-factor analysis.

WRAP's 2028 source apportionment modeling also shows that Utah NO_x and SO₂ emission sources are by far the largest sources of anthropogenic nitrate and sulfate visibility impairment at

¹¹⁵ Utah regional haze SIP submission at 37 ("[WEP] analyses can identify what significant emission sources are upwind from a Class I area").

¹¹⁶ See the TSD at section V, Weighted Emission Potential (WEP) Analysis, for detailed information.

¹¹⁰ Utah regional haze SIP submission at 34–35 (stating that the WRAP TSS "is the source of the key summary analytical results and methods for the required technical elements of the [Regional Haze Rule] contained within this SIP"). See also *id.* at 61–71, 73–81, 97–102, and 108–120.

¹¹¹ See the TSD at section II, Emissions Inventories, for detailed information.

Arches National Park, Canyonlands National Park, and Capitol Reef National Park. For example, at Arches and Canyonlands National Parks (CANY1 ¹¹⁷ site), 60.37% of the total modeled anthropogenic nitrate (from all anthropogenic emissions sources in the country) and 40.34% of the total modeled anthropogenic sulfate are attributed to Utah anthropogenic emissions. The modeling shows that a large percentage of these total anthropogenic emissions originate specifically from Utah EGUs. At Arches and Canyonlands National Parks, 82.26% of the total modeled anthropogenic nitrate and 48.49% of the total modeled anthropogenic sulfate visibility impairment from all EGU sources nationwide is attributed to Utah EGU emissions. The modeled visibility impacts at Arches and Canyonlands National Parks from Utah EGUs to nitrate light extinction are higher than any other anthropogenic source category contribution in the entire continental United States.¹¹⁸ And the modeled visibility impacts at Arches and Canyonlands National Parks from Utah EGUs to sulfate light extinction are also by far the largest among any other state or source category.¹¹⁹ Furthermore, the WRAP modeling results indicate that Utah's EGU source category has the highest contributions to nitrate and sulfate visibility impairment of all EGU sources nationwide at all Utah Class I areas (except Zion National Park for sulfate, where Utah has the third-highest contribution).

The EPA further evaluated WRAP's source apportionment modeling for the EGU source category to estimate

contributions attributable to Hunter and Huntington.¹²⁰ WRAP's 2028 emissions inventory projects that Hunter and Huntington will account for 67.41% of NO_x emissions and 60.26% of SO₂ emissions from the Utah EGU source category.¹²¹ Therefore, we assumed that these power plants would contribute an equivalent percentage of the total modeled contribution from the Utah EGU source category for nitrate and sulfate light extinction at Class I areas.¹²² Using this approach, we estimated Hunter and Huntington's contribution to total (nationwide) anthropogenic visibility impairment at Arches and Canyonlands National Park to be 14.39% of the total (nationwide) modeled 2028 anthropogenic nitrate light extinction and 14.92% of the total (nationwide) modeled 2028

¹²⁰ See the TSD at section III, Source Apportionment Modeling, for detailed information.

¹²¹ In the WRAP 2028OTBa2 emissions inventory, Intermountain was assumed to be retired and therefore had no modeled emissions. In addition to Hunter and Huntington, the vast majority of the rest of the modeled Utah NO_x and SO₂ EGU emissions were from the Bonanza power plant, a Tribal source in northeast Utah.

¹²² Because the source apportionment modeling was performed at the state level, apportioning the Class I area EGU visibility impacts to the facility level is an approximation. However, since the majority of the statewide modeled 2028 NO_x and SO₂ EGU source category emissions are from Hunter and Huntington, and those power plants are in closer proximity to Canyonlands National Park and Arches National Park than the only other modeled major source of EGU NO_x and SO₂ emissions (Bonanza power plant), our estimates are reasonable assumptions. In fact, since Hunter and Huntington are closer to Canyonlands National Park and Arches National Park than the Bonanza power plant, the calculations likely underestimate Hunter and Huntington's combined anthropogenic nitrate and sulfate visibility impacts. Furthermore, WRAP's modeling does not account for the closure of Kennecott power plant or for retirements and pollution control installations at certain other sources, further underscoring the likelihood that our calculation underestimates the relative importance of Hunter and Huntington's modeled visibility impacts to Class I areas compared to other sources.

anthropogenic sulfate light extinction. This represents a substantial contribution to both nitrate and sulfate visibility impairment at these Class I areas, and is by far the largest modeled contribution among all anthropogenic sources within and outside Utah. For Capitol Reef National Park, Hunter and Huntington's estimated contributions to total (nationwide) modeled 2028 anthropogenic nitrate light extinction is 7.51% and 7.42% for sulfate light extinction among all source categories.

Using the same assumptions as detailed in the paragraph above, the EPA estimated that of the modeled Utah EGU source category contributions to light extinction at Arches and Canyonlands National Parks, 55.45% of nitrate light extinction and 29.22% of sulfate light extinction is attributable to Hunter and Huntington. Of the modeled Utah EGU source category contributions to light extinction at Capitol Reef National Park, 42.19% of nitrate light extinction and 17.81% of sulfate light extinction is attributable to Hunter and Huntington.

Aside from Arches, Canyonlands, and Capitol Reef National Parks, Utah EGUs also heavily influence visibility impairment at other Class I areas within and outside of Utah. For example, Utah EGUs have the highest modeled contribution to nitrate and sulfate light extinction at Maroon Bells-Snowmass Wilderness, CO, Eagles Nest Wilderness, CO, Flat Tops Wilderness, CO, and West Elk Wilderness, CO (WHRI1 ¹²³), among all EGU sources nationwide. As shown in table 14, the estimated contribution from Hunter and Huntington to these four Class I areas is 3.46% (nitrate) and 13.77% (sulfate) of all total modeled anthropogenic light extinction.

¹²³ The WHRI1 IMPROVE site represents Maroon Bells-Snowmass Wilderness, Eagles Nest Wilderness, Flat Tops Wilderness, and West Elk Wilderness.

¹¹⁷ The CANY1 IMPROVE monitoring site represents both Canyonlands and Arches National Parks.

¹¹⁸ Utah regional haze SIP submission at 74, figure 36.

¹¹⁹ Utah regional haze SIP submission at 74, figure 35.

Table 14. Hunter and Huntington's Estimated Contribution to Nitrate and Sulfate Light Extinction at Class I areas as a Percentage of Total Modeled Nationwide Anthropogenic Light Extinction

Estimated Percent Contribution of Visibility Impairment Impact from Hunter and Huntington at In-State and Out-of-State Class I areas						
Class I area	Hunter		Huntington		Hunter and Huntington	
	Nitrate	Sulfate	Nitrate	Sulfate	Nitrate	Sulfate
Arches NP and Canyonlands NP	8.95%	8.78%	5.45%	6.14%	14.39%	14.92%
Bryce Canyon NP	1.79%	2.56%	1.09%	1.79%	2.88%	4.35%
Capitol Reef NP	4.67%	4.36%	2.84%	3.05%	7.51%	7.42%
Zion NP	0.92%	1.31%	0.56%	0.92%	1.48%	2.22%
Eagles Nest Wilderness, Flat Tops Wilderness, Maroon Bells-Snowmass Wilderness, and West Elk Wilderness	2.15%	8.10%	1.31%	5.67%	3.46%	13.77%

In sum, WRAP and other available data show that Utah EGUs, and Hunter and Huntington in particular, make substantial contributions to anthropogenic visibility impairment at numerous Class I areas. Because Utah's plantwide mass-based emission limits for Hunter and Huntington do not require emissions reductions compared to the plants' recent actual emissions and 2028 projected emissions, the mass-based emission limits will not mitigate the plants' major effects on anthropogenic visibility impairment at Class I areas.

For the reasons explained in section IV.C.2.a.i.–iv. of this document, we find that Utah's determination that the plantwide mass-based NO_x emission limits for Hunter and Huntington are all that is necessary to make reasonable progress is not grounded in a reasoned evaluation of the four statutory factors or a defensible technical analysis. Therefore, we propose to disapprove Utah's long-term strategy because it does not satisfy the requirements of CAA section 169A(b)(2)(b) and (g)(1) and 40 CFR 51.308(f)(2).

i. Evaluation of Costs of Compliance

Utah's evaluation of the costs of compliance was influenced by its finding that physical controls that cost more than \$5,750/ton are not cost-effective; its determination that likely reductions in the future utilization of Hunter and Huntington would reduce

the cost-effectiveness of SCR and other physical controls; and its concern about various "affordability" considerations associated with physical controls, including the potential for involuntary plant closures. Based on our evaluation of the SIP submission and supporting materials in the record, we find that Utah's analysis of and conclusions regarding the costs of compliance lack support. Therefore, we find that Utah did not reasonably consider the costs of compliance in evaluating emission reduction measures for Hunter and Huntington, as required by CAA section 169A(g)(1) and 40 CFR 51.308(f)(2).

A. Determination That Physical Controls Above \$5,750/ton Are Not Cost-Effective

Utah determined that physical controls that cost more than \$5,750/ton are not cost-effective for Hunter and Huntington. It then set the plantwide mass-based emission limits at the amount of annual NO_x emissions corresponding to the plant utilization and associated emissions levels at which SCR would have cost \$5,750/ton. As explained below, we find that Utah did not adequately justify its determination of the measures necessary to make reasonable progress at Hunter and Huntington based on its chosen cost-effectiveness level.

First, regardless of the appropriateness of the \$5,750/ton level, Utah did not specifically address whether SCR at Hunter Unit 3 (at the

lower cost of \$4,401/ton NO_x removed) is necessary for reasonable progress. Hunter Unit 3 has the highest emissions among the five units at Hunter and Huntington; installing SCR at that unit alone would reduce NO_x by 3,579 tons per year, a >80% reduction in emissions compared to recent levels. See tables 6–7. In its draft regional haze SIP, Utah acknowledged that "the relatively lower estimated \$/ton for SCR for Hunter 3 merits further evaluation of whether this control could be cost-effective."¹²⁴ However, Utah did not include that evaluation in its final SIP submission, which is silent on whether SCR at Hunter Unit 3 specifically is cost-effective. Since installing SCR at Hunter Unit 3 would achieve significant emissions reductions at a cost of \$4,401/ton (below Utah's \$5,750/ton cost-effectiveness level) and the State did not address this issue in its SIP submission, we find that Utah unreasonably rejected SCR for this unit.

Second, Utah did not adequately justify its conclusion that physical controls above \$5,750/ton are not cost-effective. Utah noted that this level is "in line with the range considered by other states," which it identified as \$1,000/ton at the low end to \$18,000/ton at the high end.¹²⁵ However, Utah

¹²⁴ Draft Utah Regional Haze SIP at 127 (contained within "Utah Regional Haze SIP Submittal 2022 v2," available in the docket for this action).

¹²⁵ Utah regional haze SIP submission at 160–61.

did not adequately explain why it selected \$5,750/ton as the appropriate amount, the factors it considered in doing so, or how this cost/ton level relates to the State's obligation to make reasonable progress toward the national visibility goal. While Utah asserted that \$5,750/ton is not cost-effective "when balanced against the remaining three statutory factors,"¹²⁶ the State's evaluation of those factors evinces no connection to its chosen cost/ton level. Since Utah did not sufficiently explain the basis for its determination and did not provide adequate underlying technical documentation, we cannot conclude that Utah's selection of a \$5,750/ton cost-effectiveness level was based on reasoned analysis.

The information in the record indicates that installation of SCR, at an estimated cost of \$5,979–\$6,533/ton NO_x reduced, may well be cost-effective for Hunter Units 1 and 2 and Huntington Units 1 and 2 (or some subset of these units). These values are on the higher end of emission reduction measures found to be cost-effective in previous regional haze actions,¹²⁷ but they may be cost-effective here in light of the magnitude of Hunter and Huntington's contributions to anthropogenic visibility impairment at several Class I areas. Based on the information provided by Utah, installation of SCR at all five units at Hunter and Huntington would reduce NO_x emissions by over 12,000 tons per year compared to both the baseline emissions assumed in the four-factor

analysis and the 2028 mass-based emission limits that Utah determined to be necessary for reasonable progress (see tables 6, 7, and 8 above). Utah explained that in making its source-specific reasonable progress determinations, it evaluated the four statutory factors "as well as the [visibility] modeling results provided by the WRAP."¹²⁸ The State also concluded that its determinations of the measures necessary to make reasonable progress "will help protect . . . visibility in Utah."¹²⁹ At the same time, Utah did not evaluate the appropriateness of the \$5,750/ton cost-effectiveness level in light of these visibility considerations. As explained above in this document and in the TSD for this action, the WRAP modeling shows that Utah EGUs, and Hunter and Huntington in particular, have large impacts on both anthropogenic nitrate and sulfate impairment at several Class I areas in Utah and outside the State. SCR would achieve substantial reductions in NO_x emissions from these plants, mitigating their contributions to anthropogenic nitrate visibility impairment in numerous Class I areas.¹³⁰ See tables 6–7. As we noted in the 2017 RHR Revisions, if a state arbitrarily excludes "cost-effective controls at sources with significant visibility impacts, then the EPA has the authority to disapprove the state's unreasoned analysis."¹³¹

For these reasons, we find that Utah unreasonably relied on a \$5,750 cost-effectiveness level in determining that the mass-based emission limits at Hunter and Huntington are all that is necessary for reasonable progress.

B. Consideration of Future Plant Utilization

In its evaluation of the costs of compliance, Utah also determined that likely reductions in the future utilization of Hunter and Huntington would erode the cost-effectiveness of SCR. Consequently, the State concluded that this factor weighed in favor of the mass-based emission limits over SCR.¹³² As detailed in this section IV.C.2.b.i.B., we find that Utah's decision-making based on projected changes in future

plant utilization was not based on reasoned analysis.

Utah did not employ the plant utilization assumptions that WRAP used in its 2028 emissions projection (based on 2016–2018 utilization levels) and that PacifiCorp used in its cost/ton analysis (based on 2015–2019 utilization levels). Utah instead utilized PacifiCorp's 2021 IRP to predict future operations at Hunter and Huntington.¹³³ The IRP, however, does not provide plant- or unit-specific projections of utilization.¹³⁴ More importantly, IRPs are neither permanent nor enforceable at the state or Federal levels and are subject to change at any time.¹³⁵ Instead, PacifiCorp's IRP outlines the company's "preferred portfolio": the "least-cost, least-risk" portfolio of company-wide resources at the time the IRP was published.¹³⁶ Utah reviewed the IRP preferred portfolio's projections of new renewable resource and storage capacity, coal unit retirements or conversions to natural gas, and coal generation and capacity compared to total energy generation and capacity.¹³⁷ Based on its interpretation of the 2021 IRP, Utah concluded that utilization of Hunter and Huntington is likely to decline.¹³⁸

As the 2021 IRP itself cautions, "these plans, particularly the longer-range elements, can and do change over time."¹³⁹ While the 2021 IRP projected retirement dates of 2036 for Huntington and 2042 for Hunter under the company's then-preferred portfolio,¹⁴⁰ the 2023 IRP moved those projections up to 2031–2032.¹⁴¹ Just one year later, as a result of regulatory developments leading to "fewer restrictions on coal-fired operation than were assumed," the

¹²⁶ *Id.* at 157–58.

¹²⁷ The EPA recently proposed a BART FIP for Texas that references first implementation period BART decisions and notes that the EPA and states required several BART controls with average cost-effectiveness values in the \$4,200/ton to \$5,100/ton range (escalated to 2020 dollars). 88 FR 28918, 28963 (May 4, 2024). Other states have found higher control costs to be reasonable, as Utah acknowledged in figure 61 of its regional haze SIP submission. For example, Oregon selected a \$10,000/ton cost-effectiveness threshold for the second implementation period. 89 FR 13622, 13638 (Feb. 23, 2024). PacifiCorp submitted its updated cost analysis in August 2021 (appendix C.3.C. to Utah's regional haze SIP submission), though it is not clear what cost year was assumed for the cost/ton values. Even if the cost/ton values for SCR at Hunter and Huntington are somewhat higher than those referenced in the Texas BART FIP and other actions, they may still be cost-effective for purposes of reasonable progress in the second implementation period. Most of the least expensive available emission reduction measures were already required and implemented during the first implementation period. As we move forward to subsequent implementation periods, source emissions will become smaller and potential controls will become more expensive on a cost per ton basis. However, the statute and regulations still require states to continue to make reasonable progress towards the national visibility goal. See generally CAA section 169A(b)(2)(B); 40 CFR 51.308(f)(2); 40 CFR 51.308(e)(5); 82 FR 3080.

¹²⁸ Utah regional haze SIP submission at 14.

¹²⁹ *Id.* at 178.

¹³⁰ The mass-based emission limits are very similar to the RPELs that PacifiCorp initially proposed, which Utah found to be "lacking" because they would "not represent a reduction in actual emissions." Utah regional haze SIP submission, appendix C.3.B. at 9. But Utah did not acknowledge or address this issue when it adopted the mass-based emission limits.

¹³¹ 82 FR 3088.

¹³² Utah regional haze SIP submission at 156–57, appendix H at 672.

¹³³ Utah regional haze SIP submission at 152.

¹³⁴ PacifiCorp's Public Comment on Utah's Regional Haze Second Implementation Period SIP (May 31, 2022) at 18 n.39 (hereinafter "PacifiCorp Public Comment"); PacifiCorp 2021 IRP at 21 ("PacifiCorp's portfolio development process is based on achieving reliable system operation using the aggregate contributions of each resource in the portfolio, rather than focusing on an individual estimate.").

¹³⁵ PacifiCorp 2021 IRP at 7. The page following the cover page states: "This 2021 Integrated Resource Plan Report is based upon the best available information at the time of preparation. The IRP . . . is subject to change as new information becomes available or as circumstances change. It is PacifiCorp's intention to revisit and refresh the IRP action plan no less frequently than annually."

¹³⁶ *Id.* at 7.

¹³⁷ Utah regional haze SIP submission at 152–54.

¹³⁸ *Id.* at 153–54.

¹³⁹ PacifiCorp 2021 IRP at 7.

¹⁴⁰ *Id.* at 136–37; Utah regional haze SIP submission at 153, 158.

¹⁴¹ PacifiCorp, "2023 Integrated Resource Plan" Vol. I (Mar. 31, 2023) at 146, available in the docket for this action.

2023 IRP Update (released in April 2024) returned the plants’ projected retirement dates to 2036 and 2042.¹⁴² As these changes demonstrate, PacifiCorp’s preferred portfolio frequently evolves in response to changing costs, consumer demand for clean energy, and risks, including changes to the company’s regional haze and other environmental compliance obligations.¹⁴³

Notably, PacifiCorp did not provide evidence regarding changes in plant utilization during the SIP development process. In its submissions to the State, the company noted overall changes in the electricity generation sector and “uncertainty regarding medium to long-term operations of Hunter and Huntington,” but it never once stated that it expected the plants’ utilization to

decline.¹⁴⁴ For the reasons explained in this section IV.C.2.a.i.B., we disagree with Utah’s assertion that its SIP submission includes “strong evidence that utilization of these facilities is likely to decrease in the future.”¹⁴⁵ Consequently, the information in the record does not support Utah’s conclusion as to the likely “erosion” of the cost-effectiveness of SCR at Hunter and Huntington (\$4,401/ton to \$6,533/ton).¹⁴⁶

Furthermore, the mass-based emission limits that Utah established bear no relationship to the State’s judgment that utilization of Hunter and Huntington is likely to decline. Table 59 in Utah’s regional haze SIP submission shows the inputs Utah used to calculate the emission limits, including each unit’s

2028 utilization (in the form of heat input). As shown in table 15, Utah’s projected 2028 heat input levels are slightly *higher* than 2015–2019 average heat input for all Hunter and Huntington units except Hunter Unit 3. Plantwide, the 2028 utilization levels Utah used in calculating the mass-based emission limits represent a 7.75% increase in utilization across the two units at Huntington and a 0.94% increase across the three units at Hunter, compared to their average actual 2015–2019 utilization. In other words, Utah set its mass-based emission limits at levels premised on an *increased* plant utilization scenario. The State did not acknowledge or reconcile this conflict within its SIP submission.

Table 15. Hunter and Huntington: 2015-2019 Average Heat Input, 2028 Mass-Based Emissions Limit Heat Input, and the Percent Change of 2015-2019 Average Heat Input to 2028 Mass-Based Emissions Limit Heat Input

Individual EGU Unit or EGU Facility	2015-2019 Average Heat Input (MMBtu)	2028 Mass-Based Emissions Limit Heat Input (MMBtu)	Percent Change 2015-2019 Average to 2028 Heat Input
Hunter Unit 1	28,482,643	33,016,004	115.92%
Hunter Unit 2	30,101,030	34,628,669	115.04%
Hunter Unit 3	31,182,279	22,963,607	73.64%
Hunter Units 1-3	89,765,952	90,608,279	100.94%
Huntington Unit 1	28,063,728	29,357,153	104.61%
Huntington Unit 2	27,150,145	30,136,124	111.00%
Huntington Units 1-2	55,213,873	59,493,277	107.75%

Because the mass-based emission limits are predicated on increased plant utilization, Utah’s citation to the 2019 Guidance and 2021 Clarifications Memo¹⁴⁷ lends no support to its position. The 2019 Guidance states that “[g]enerally, the estimate of a source’s 2028 emissions is based at least in part on information on the source’s operation and emissions during a representative historical period.”¹⁴⁸ However, both the 2019 Guidance and 2021 Clarifications Memo provide examples of situations where it may be

reasonable to conclude that a source’s 2028 operations will differ from its historical operations, such as the addition of *enforceable* requirements or expected changes in utilization due to documented and verifiable renewable energy or energy efficiency programs.¹⁴⁹ The 2021 Clarifications Memo notes that when a state relies on an assumption of reduced utilization to reject emission control measures, it may incorporate a utilization or production limit corresponding to that assumption into its SIP.¹⁵⁰ Utah projected that utilization

of Hunter and Huntington would decline compared to recent historical utilization levels. In alignment with the 2021 Clarifications Memo, Utah could have proposed enforceable utilization limits and/or mass-based emission limits based upon the decreasing utilization assumptions. However, Utah set the mass-based emission limits at levels premised on increased, rather than decreased, plant utilization, which does not align with the 2019 Guidance or 2021 Clarifications Memo.

¹⁴² PacifiCorp, “2023 Integrated Resource Plan Update” (April 1, 2024) at 12, available in the docket for this action.

¹⁴³ PacifiCorp 2021 IRP at 7, 24, 53–56.

¹⁴⁴ PacifiCorp Public Comment at 18. PacifiCorp declined to provide its projected capacity factors for Hunter and Huntington, citing their proprietary and

commercially sensitive nature. Utah and EPA regulations provide for the confidential treatment of qualifying business information. See generally 40 CFR 2.201 through 2.311; Utah Admin. Code 307–102–2.

¹⁴⁵ Utah regional haze SIP submission, appendix H at 672.

¹⁴⁶ Utah regional haze SIP submission at 156.

¹⁴⁷ Utah regional haze SIP submission at 147–48.

¹⁴⁸ 2019 Guidance at 29.

¹⁴⁹ *Id.*; 2021 Clarifications Memo at 12.

¹⁵⁰ 2021 Clarifications Memo at 12.

In sum, Utah's reliance on an unsubstantiated and unenforceable projected reduction in future plant utilization does not justify its conclusion that installing SCR at Hunter and Huntington, at an estimated cost of \$4,401/ton to \$6,533/ton depending on the unit, is not cost-effective and is not necessary for reasonable progress.¹⁵¹ Furthermore, the specific levels at which Utah established the mass-based emission limits are not grounded in reasoned analysis. For the reasons explained in this section, we find that Utah has not justified its reliance on changes in plant utilization to determine that the mass-based emission limits at Hunter and Huntington are all that is necessary for reasonable progress.

C. Evaluation of Affordability Considerations

In its evaluation of the costs of compliance, Utah also considered several "affordability" arguments presented by PacifiCorp and Deseret Power, a part owner of Hunter Unit 2. These included the potential for involuntary plant closures or conversions to natural gas, difficulties in recovering the costs of SCR installation, and Deseret's contention that it could not finance its share of SCR costs at Hunter Unit 2.¹⁵² Utah concluded that "these affordability concerns and the potential for forced unit closures weigh in favor of" the mass-based emission limits over SCR.¹⁵³

To support its affordability arguments, PacifiCorp relied on the BART Guidelines,¹⁵⁴ which the EPA promulgated to address BART, a separate statutory and regulatory requirement from the requirement to make reasonable progress toward the national visibility goal. While we may consider affordability under the costs of compliance factor for reasonable progress, affordability is not an overriding element of the costs of compliance analysis and cannot be considered in isolation to determine whether emission reduction measures are necessary to make reasonable

progress. As explained in the paragraphs that follow, Utah's conclusion regarding affordability was not based on adequate analysis or supporting documentation. Therefore, as with plant utilization, we find Utah's reliance on affordability considerations to be unjustified.

First, the record does not substantiate Utah's concerns that Hunter and Huntington may be effectively forced to cease operations if the State required emission reductions based on SCR. While Utah listed several coal-fired power plants regionally and nationwide that PacifiCorp alleged have either "retired or powered [to natural gas] rather than installing SCR,"¹⁵⁵ the record contains no details about those closures or conversions.¹⁵⁶ Without that information, it is impossible to conclude whether they resulted from market forces, regulatory requirements, other factors, or some combination of causes. Utah also cited an "Affordability Analysis" that PacifiCorp prepared for its Wyodak power plant in Wyoming.¹⁵⁷ That document presented an economic analysis of SCR installation at Wyodak using system modeling analysis and a plant-specific market-based dispatch analysis.¹⁵⁸ PacifiCorp acknowledged that "the outcome of the Affordability Analysis does not directly translate" to Hunter and Huntington,¹⁵⁹ and it did not submit a similar plant-specific analysis for those facilities. Utah did not address the Affordability Analysis' applicability to Hunter and Huntington, conduct its own economic analysis, or make any determination as to the likelihood (versus the potential) of plant closures. Without such a determination grounded in adequate documentation and supporting analysis, Utah's stated concerns about involuntary plant closures cannot be substantiated.¹⁶⁰

¹⁵⁵ Utah regional haze SIP submission at 154.

¹⁵⁶ PacifiCorp Public Comment at 13–14 (listing sources but providing no details on the factors that led to the decision). PacifiCorp also conceded that "some coal-fueled units have elected to install SCR." *Id.* at 14.

¹⁵⁷ Utah regional haze SIP submission at 154–55.

¹⁵⁸ PacifiCorp Public Comment, appendix A—"Wyodak Facility SCR Affordability Analysis, August 25, 2020." The EPA is not expressing any opinion on the content of the Affordability Analysis or its accuracy.

¹⁵⁹ PacifiCorp Public Comment at 10.

¹⁶⁰ Only once has the EPA agreed with a facility's position that regional haze emissions controls would be unaffordable, and that evaluation was pursuant to the BART Guidelines. In that case, the company provided the EPA with data substantiating its assertion that it would likely not be able to operate profitably if it installed the required control technology, and that the plant would likely close rather than install and operate the BART-required controls. The EPA relied on its own affordability analysis and detailed financial records submitted by the company demonstrating that the facility and the

Second, PacifiCorp's broad assertions about affordability do not justify Utah's concern that SCR could be deemed an "imprudent investment" by state public service commissions.¹⁶¹ PacifiCorp (a regulated public utility) highlighted the "likely inability to recover the costs of SCR," citing out-of-state laws and prior difficulties in recovering the costs of pollution control equipment in Oregon, California, and Washington, but not in Utah.¹⁶² Utah lent credence to these concerns without evaluating the likelihood that PacifiCorp would be unable to recover the costs of SCR installation at Hunter and Huntington or addressing which states would have jurisdiction over such a request.¹⁶³ Therefore, we find that Utah's concerns about potential scrutiny of investments in SCR are unsubstantiated and lack a sufficient connection to the sources at issue.

Third, Utah gave unreasonable weight to assertions by Deseret Power (which owns a 25% share in Hunter Unit 2) that it may be unable to finance its portion of SCR installation costs for that unit.¹⁶⁴ Deseret stated in a short comment letter that under the terms of a debt forbearance with its principal creditor, it cannot take on new debt without the creditor's consent.¹⁶⁵ Deseret did not attach any supporting documentation (e.g., a debt forbearance agreement) and did not opine on the likelihood that its creditor would withhold consent. We find that Utah did not have a sufficient basis for taking Deseret's unsubstantiated concerns into account in its evaluation of the costs of compliance.¹⁶⁶

For these reasons, we find that Utah unreasonably relied on affordability considerations to conclude that the costs of compliance factor favors mass-based emission limits over SCR.

company were in a strained financial position that would have been exacerbated by the installation of the BART controls. 78 FR 79344, 79353–54 (Dec. 30, 2013) (proposed rule); 79 FR 33438, 33442–42 (June 11, 2014) (final rule).

¹⁶¹ Utah regional haze SIP submission at 154–55, 158.

¹⁶² PacifiCorp Public Comment at 14–15.

¹⁶³ Utah regional haze SIP submission at 154–55.

¹⁶⁴ Utah regional haze SIP submission at 155–56, appendix H at 674–75.

¹⁶⁵ Deseret Generation & Transmission Cooperative Public Comment (May 31, 2022) at 2.

¹⁶⁶ See generally 78 FR 79344, 79353 (in proposing to find that BART controls were unaffordable, relying on detailed financial information submitted by the company and the EPA's affordability analysis addressing "the long-term power supply contract, cost/sales ratio, ability to borrow funds, the price of electricity, updated investment ratings, aluminum market conditions and other factors relevant to the affordability determination").

¹⁵¹ Utah also highlighted the "regulatory flexibility" that mass-based limits provide, noting that PacifiCorp can meet them by "modifying operation, installing controls, switching fuels, closing units, or some combination of these options." Utah regional haze SIP submission at 164. Given that Utah's mass-based limits are predicated on increased plant utilization, we do not see the logic in Utah's assumption that PacifiCorp must make any changes to comply with them. In any event, SCR-based numeric emission limits would provide that same flexibility, as sources can generally choose to comply with those limits in any manner they choose.

¹⁵² Utah regional haze SIP submission at 154–156.

¹⁵³ *Id.* at 156.

¹⁵⁴ 40 CFR part 51, appendix Y, section IV.E.3.

ii. Evaluation of Time Necessary for Compliance, Energy and Non-air Quality Impacts of Compliance, and Remaining Useful Life

Utah also concluded that the three other statutory factors supported its determination that the plantwide mass-based emission limits are all that is necessary to demonstrate reasonable progress.¹⁶⁷ As explained in the paragraphs below, we find that Utah did not reasonably evaluate these three statutory factors.

In considering the time necessary for compliance, Utah pointed out the “short window available” for installation of physical controls during the time remaining in the second implementation period (“approximately five years, depending [on] the final approval date”).¹⁶⁸ Utah concluded this was likely not enough time for installation of SCR, while mass-based emission limits could be implemented immediately upon SIP approval.¹⁶⁹ Utah’s analysis contravenes the plain text of 40 CFR 51.308(f)(2)(i), which states: “In considering the time necessary for compliance, if the State concludes that a control measure cannot reasonably be installed and become operational until after the end of the implementation period, the State *may not consider this fact* in determining whether the measure is necessary to make reasonable progress.”¹⁷⁰ But even if that consideration were permissible, PacifiCorp expressly stated in a submission to Utah that SCR could be installed at all units of Hunter and Huntington by the end of the second implementation period in 2028.¹⁷¹ Utah provided no explanation for its contrary assessment.

In its analysis of the energy and non-air quality impacts of compliance, Utah stated that because Hunter and Huntington are “projected to assist in the transition towards intermittent renewable resources, alternative resources will be required to provide such support” if an SCR-based requirement leads to early plant closures.¹⁷² As explained in section IV.C.2.a.i.C. of this document, Utah did not substantiate its concern that Hunter and Huntington would cease operations rather than install SCR. But even if it had, Utah provided no analysis or documentation of how the plants’ closure would affect renewable energy

deployment or the sufficiency of “alternative resources” to assume their role. Without any supporting documentation or analysis, Utah’s reliance on this issue in its consideration of energy and non-air quality impacts cannot be substantiated.

Finally, in its consideration of Hunter and Huntington’s remaining useful lives, Utah stated that the expected closure dates of 2042 for Hunter and 2036 for Huntington both involve shorter time periods than the 30-year economic life of SCR. Utah asserted that closure of the plants at or before these planned retirement dates “would further erode the cost-effectiveness of physical controls by shortening the amortization period for control costs.”¹⁷³ It also stated that “[o]ngoing scrutiny of expenditures associated with coal-fired power plants by state public service commissions and the establishment of clean energy requirements in California, Oregon, and Washington increase the risk that these facilities may face early closure.”¹⁷⁴ Utah did not substantiate its concerns about early plant closures; it also conceded that the planned retirement dates of 2036 and 2042, which were sourced from the 2021 IRP, are not enforceable.¹⁷⁵ Therefore, we find that Utah did not accurately or reasonably consider Hunter and Huntington’s remaining useful lives.

In sum, Utah unreasonably concluded that the remaining three statutory factors support its determination that plantwide mass-based emission limits for Hunter and Huntington, instead of SCR, are all that is necessary to make reasonable progress toward the national visibility goal.

iii. Establishment of Annual Limits

Apart from its unreasonable evaluation of the four statutory factors, we find that Utah did not adequately support its determination that mass-based emission limits that apply on an annual basis, as opposed to a shorter time period such as monthly or seasonally, are sufficient to make reasonable progress. As the State recognized, nitrate visibility impairment at Utah’s Class I areas (*i.e.*, impairment caused by NO_x emissions) is “largely seasonal” and peaks in the winter.¹⁷⁶ The EPA commented that short-term

limits may better protect visibility on the most impaired days in Class I areas.¹⁷⁷ In response, Utah asserted that Hunter and Huntington, whose operational peaks have historically occurred in both summertime and wintertime (in response to electricity demand), are unlikely to consume the majority of their annual NO_x limit in the winter because they must preserve enough of their emissions budgets for the summertime peak. Utah also noted that short-term limits “may limit flexibility to provide support for PacifiCorp’s energy transition to intermittent non-emitting resources like renewables.”¹⁷⁸

We find that Utah did not provide adequate technical documentation to support its conclusion that short-term limits are “unnecessary.”¹⁷⁹ Utah did not explain why it is reasonable to assume the plants’ historical operational patterns (*e.g.*, summer and winter seasonal peaks) are likely to persist in the future despite the “significant change[s]” the State predicted for the electricity generation industry in general and Hunter and Huntington’s operations in particular.¹⁸⁰ Nor did Utah provide any data or analysis examining how short-term limits could impair Hunter and Huntington’s ability to produce sufficient electricity during times of low renewable energy generation. For example, Utah provided no information on the anticipated times of year or expected frequencies that Hunter and Huntington may be required to provide support to renewable generation. Therefore, Utah has not shown that annual limits are sufficient to ensure reasonable progress toward the national goal of preventing any future and remedying any existing anthropogenic visibility impairment at Class I areas.

In conclusion, for the reasons explained above in sections IV.C.2.a.i.-iv. of this document, we propose to disapprove Utah’s long-term strategy for failing to reasonably evaluate the NO_x emission reduction measures for Hunter and Huntington that are necessary to make reasonable progress toward Congress’s national visibility goal.

iv. SO₂ Emissions at Hunter and Huntington

Utah did not conduct a four-factor evaluation of SO₂ emission reduction measures for Hunter and Huntington, concluding that the plants are already

¹⁶⁷ Utah regional haze SIP submission at 157.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ 40 CFR 51.308(f)(2)(i) (emphasis added).

¹⁷¹ Utah regional haze SIP submission, appendix C.3.A at 12, 24.

¹⁷² Utah regional haze SIP submission at 157.

¹⁷³ *Id.* at 158.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* 40 CFR 51.308(f)(2) requires SIPs to include enforceable measures. Therefore, as we explained in the 2019 Guidance at 34, a state should rely on a facility’s planned closure date in its evaluation of remaining useful life only if the closure is enforceable.

¹⁷⁶ Utah regional haze SIP submission at 161–62.

¹⁷⁷ Utah regional haze SIP submission, appendix H at 693–94.

¹⁷⁸ *Id.* at 693–94.

¹⁷⁹ *Id.* at 694.

¹⁸⁰ Utah regional haze SIP submission at 150–54.

well-controlled based on their current permitted SO₂ limits (0.12 lb/MMBtu 30-day rolling average).¹⁸¹ As detailed in the TSD for this action, Hunter and Huntington make substantial contributions to sulfate light extinction at several Class I areas. We are seeking comment on whether SO₂ emission reduction measures (such as installation of new controls, efficiency improvements to the plants' existing scrubber systems, operational changes, or other measures) and/or emission limit tightening to align with the plants' recent actual operation¹⁸² are necessary to make reasonable progress under CAA section 169A and 40 CFR 51.308(f)(2).

Utah determined that continued operation of the plants' existing SO₂ controls is necessary for reasonable progress. The State incorporated the SO₂ emission limits in the plants' title V permits into the regulatory language of its SIP at parts H.23.d.vi-vii (Hunter) and H.23.e.vi-vii (Huntington). For Hunter Unit 3, however, the limit specified in part H.23.d.vii (1.2 lb/MMBtu heat input for any 3-hour period) does not match the more stringent title V permitted limit of 0.12 lb/MMBtu heat input based on a 30-day rolling average.¹⁸³ Utah did not address this discrepancy in its regional haze SIP submission. We invite comment on this issue.

¹⁸¹ *Id.* at 145–46.

¹⁸² Since 2011, all five units at Hunter and Huntington have consistently operated at levels below their permitted SO₂ limits, achieving SO₂ emission rates between 0.06 and 0.10 lb/MMBtu. Utah regional haze SIP submission at 145.

¹⁸³ Title V Operating Permit for PacifiCorp—Hunter Power Plant (Permit No. 1500101004, last revised Nov. 19, 2021), section II.B.3.b., available in the docket for this action.

b. Failure To Evaluate Whether Emission Reduction Measures at CCI Paradox Lisbon Natural Gas Plant Are Necessary for Reasonable Progress

In developing its long-term strategy, Utah chose not to evaluate the four statutory factors to determine whether emission reduction measures at CCI Paradox Lisbon Natural Gas Plant are necessary to make reasonable progress. For the reasons explained in this section IV.C.2.b., we find Utah's decision to be unjustified. Therefore, we propose to disapprove Utah's long-term strategy because the State did not consider the emission reduction measures at Lisbon Natural Gas Plant that are necessary to make reasonable progress toward the national visibility goal, as required by 40 CFR 51.308(f)(2).

The Lisbon Natural Gas Plant is a natural gas processing plant in an area known as the Lisbon Valley in southeastern Utah. As explained in section IV.C.1.a. of this document, Utah used a Q/d screening process to identify potential sources for four-factor analysis. The facility fell within Utah's Q/d screening due to its combined Q/d value of 20.9 for Canyonlands National Park (based on 2014 actual emissions).¹⁸⁴ It is located 35.8 kilometers (approximately 22 miles) from Canyonlands and 54.6 kilometers (approximately 33 miles) from Arches, closer to Class I areas than any other source Utah analyzed.¹⁸⁵

During its "secondary" review of sources, Utah eliminated the Lisbon Natural Gas Plant from further evaluation. Utah elected not to require four-factor analysis for the facility due

to its "anomalously high SO₂ emissions in 2014 (and 2015)," a Q/d recalculation for years 2017–2021 indicating that the source was below Utah's Q/d threshold of 6, and the facility's recent actual SO₂ emissions dropping to a small fraction of the 2014 emissions used in the original Q/d calculation.¹⁸⁶ As detailed below, these reasons do not justify Utah's decision not to consider the four factors and determine the emission reduction measures at Lisbon Natural Gas Plant that are necessary to make reasonable progress.

To evaluate the State's discussion of Lisbon Natural Gas Plant's Q/d values, the EPA calculated the facility's combined (SO₂, NO_x, and PM₁₀) Q/d values for Canyonlands National Park using emissions data the source provided to Utah.¹⁸⁷ Our results are listed in table 16 of this document; the State's Q/d calculations are reported in table 29 (Q/d values based on 2014 emissions) and table 31 (Q/d values for 2017–2021) of its regional haze SIP submission. Table 16 shows Lisbon Natural Gas Plant's actual emissions from 2008–2021 and the Q/d values we calculated for Canyonlands National Park based on those actual emissions. Given Utah's reference to "anomalously high" SO₂ emissions in 2014 and 2015, we also included a scenario calculating the facility's Q/d value had it emitted zero SO₂ (*i.e.*, the Q/d value reflects only NO_x and PM₁₀ emissions) in the years when its actual SO₂ emissions caused the Q/d value to exceed 6.

BILLING CODE 6560–50–P

¹⁸⁶ *Id.* at 102–103.

¹⁸⁷ See CCI Paradox emissions data.xlsx, available in the docket for this action.

¹⁸⁴ Utah regional haze SIP submission at 100.

¹⁸⁵ *Id.* at 100, 103.

Table 16. CCI Paradox Lisbon Natural Gas Plant Emissions and Q/d Values with Yearly Scenarios Assuming Zero SO₂ Emissions

CCI Paradox Midstream Lisbon Natural Gas Plant					
Year	NO _x	PM ₁₀	SO ₂	Combined Q	Combined Q/d at Canyonlands (35.80 km)
2008	213.06	5.43	85.24	303.73	8.48
2008 - No SO ₂ Emissions Scenario	213.06	5.43	-	218.49	6.10
2009	218.02	5.05	147.24	370.31	10.34
2009 - No SO ₂ Emissions Scenario	218.02	5.05	-	223.07	6.23
2010	21.70	5.13	82.24	109.07	3.05
2011	156.98	6.61	24.87	188.46	5.26
2012	157.99	6.88	0.10	164.97	4.61
2013	237.83	7.61	5.09	250.53	7.00
2013 - No SO ₂ Emissions Scenario	237.83	7.61	-	245.43	6.86
2014	188.56	58.99	499.57	747.11	20.87
2014 - No SO ₂ Emissions Scenario	188.56	58.99	-	247.54	6.91
2015	235.27	22.13	664.66	922.06	25.76
2015 - No SO ₂ Emissions Scenario	235.27	22.13	-	257.40	7.19
2016	242.38	14.69	78.49	335.56	9.37
2016 - No SO ₂ Emissions Scenario	242.38	14.69	-	257.07	7.18
2017	Plant not in operation				
2018	111.56	45.11	0.05	156.73	4.38
2019	Plant not in operation				
2020	186.53	61.91	0.65	249.09	6.96
2020 - No SO ₂ Emissions Scenario	186.53	61.91	-	248.44	6.94
2021	181.44	27.83	0.09	209.35	5.85

BILLING CODE 6560-50-C

For 2020, we calculated a combined Q/d value of 6.96, compared to the

State's value of 5.3. This discrepancy appears to have resulted from Utah's use of a NO_x emission value of 126.0 tpy for

2020, rather than the 186.53 tpy reported in the EPA's Emissions

Inventory System (EIS).¹⁸⁸ Thus, we disagree with the State's determination that Lisbon Natural Gas Plant's Q/d values based on 2017–2021 emissions “all . . . fall below” its Q/d threshold of 6.¹⁸⁹

The data in table 16 do not support the State's assessment that anomalously high SO₂ emissions in 2014 and 2015 were largely responsible for Lisbon Natural Gas Plant's Q/d values. For every year between 2008 and 2021 where the source exceeded Utah's combined Q/d threshold of 6, table 16 shows that would still hold true even when all SO₂ emissions are eliminated from the “Q.”¹⁹⁰ In other words, the source's anomalous SO₂ emissions in 2014 and 2015 (and its SO₂ emissions in any other year) did not cause it to exceed the Q/d threshold. It would have

surpassed that threshold based on NO_x and PM₁₀ emissions alone. For that same reason, Utah's statement that the source's SO₂ emissions in 2017–2021 dropped to “0.01 and 0.13 percent of the 2014 levels used in the original screening”¹⁹¹ do not justify the State's decision not to evaluate the four statutory factors for Lisbon Natural Gas Plant. Moreover, even if the State had properly excluded SO₂ emissions from consideration, a four-factor analysis may still have been warranted for NO_x and PM emission reduction measures because those emissions caused the source to exceed Utah's Q/d threshold.

The WEP values for Lisbon Natural Gas Plant, which Utah considered when evaluating the appropriateness of its source selections,¹⁹² show that the facility is a top ten contributor to nitrate

visibility impairment at Arches National Park and Canyonlands National Park. Considering all in-state and all out-of-state point sources, Lisbon Natural Gas Plant ranks ninth for nitrate WEP value, indicating that its NO_x emissions are expected to affect visibility even without considering SO₂.

Furthermore, other sources that Utah selected for four-factor analysis (namely Ash Grove Leamington Cement Plant, Graymont Cricket Mountain Plant, and US Magnesium Rowley Plant) all have similar Q/d values as the Lisbon Natural Gas Plant. See table 17. Utah's regional haze SIP submission does not adequately justify the State's decision to evaluate the four statutory factors for all of these other sources but not for Lisbon Natural Gas Plant.

Table 17. Q/d Values for Utah's Selected Sources and CCI Paradox Lisbon Natural Gas Plant

State	IMPROVE Site ID	Class I Area	Ash Grove Leamington Cement Plant	CCI Paradox Lisbon Natural Gas Plant	Graymont Cricket Mtn. Plant	PacifiCorp Hunter Power Plant	PacifiCorp Huntington Power Plant	Sunnyside Cogeneration	US Magnesium Rowley Plant
			Q/d Values from Utah's Selected Sources at Utah Class I Areas						
UT	CANY1	Arches National Park	4	14	4	135	76	15	6
UT	BRCA1	Bryce Canyon National Park	4	3	8	86	49	6	6
UT	CANY1	Canyonlands National Park	4	21	5	153	80	12	6
UT	CAPI1	Capitol Reef National Park	7	5	9	216	106	11	7
UT	ZICA1	Zion National Park	4	2	7	63	37	5	6

The regulations at 40 CFR 51.308(f)(2)(i) requires a state's SIP submission to include “a description of the criteria it used to determine which

sources or groups of sources it evaluated.” In addition, the state must adequately document the technical basis for source selection, as required by 40

CFR 51.308(f)(2)(iii). As explained in this section, Utah did not adequately justify its decision not to evaluate the four statutory factors for Lisbon Natural

¹⁸⁸ Utah regional haze SIP submission at 103. The EIS data for Lisbon Natural Gas Plant is included in the docket for this action.

¹⁸⁹ Utah regional haze SIP submission at 102.

¹⁹⁰ See the “No SO₂ Emissions Scenario” for 2008, 2009, 2013, 2014, 2015, 2016, and 2020 in table 16.

¹⁹¹ Utah regional haze SIP submission at 102.

¹⁹² *Id.* at 108.

Gas Plant to determine the emission reduction measures necessary to make reasonable progress. Consequently, we find that Utah's long-term strategy does not satisfy the requirements of 40 CFR 51.308(f)(2).

c. Improper Inclusion of Automatic Exemption for Startup, Shutdown, and Malfunction Events in Emission Limitations for Intermountain Power Plant

We are also proposing to disapprove Utah's long-term strategy for the improper inclusion of an automatic exemption for SSM events in the emission limitations for Intermountain power plant. As detailed in this section, these automatic exemptions violate CAA requirements.

The CAA, RHR, and 2017 RHR Revisions establish the requirements states must meet in developing SIPs to address visibility impairment.¹⁹³ CAA section 110(a)(2)(A) requires that each SIP submitted by a state under the CAA "shall include enforceable emission limitations and other control measures, means, or techniques . . . , as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter." Under the CAA's visibility provisions, CAA section 169A(b)(2) requires states' SIPs to "contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal." In addition, CAA section 169B(e)(2) directs the Administrator to promulgate regulations under section 169A requiring states to revise their SIPs under CAA section 110, specifying that those SIPs must contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out the regulations promulgated pursuant to the CAA's visibility provisions.

Pursuant to this statutory directive, the EPA promulgated the RHR and its subsequent 2017 revisions,¹⁹⁴ which require states' long-term strategies to "include the enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress" towards remedying and preventing anthropogenic visibility impairment in Class I areas.¹⁹⁵ Under CAA section 302(k), "emission limitation" is defined as "a requirement established by the

State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under this chapter."¹⁹⁶

When states are developing SIPs to address regional haze, they may exercise discretion, consistent with the statutory and regulatory requirements, to determine what emission limitations are necessary to make reasonable progress. If a state determines that emission limitations are necessary, it must incorporate those emission limitations into its SIP pursuant to CAA section 110(a)(2)(A).

In 2015, the EPA issued a SIP call that laid out our policy with respect to SSM provisions in SIPs.¹⁹⁷ Specifically, the EPA determined that SIP provisions that create or authorize exemptions from SIP emission limitations during SSM events are inconsistent with the CAA. This is because excess emissions during SSM events result in higher emissions that are not considered a violation under the CAA, even though the source exceeds the otherwise applicable emission limitation.¹⁹⁸

In *Environmental Committee of the Florida Electric Power Coordination Group, Inc. v. EPA*,¹⁹⁹ petitioners challenged the EPA's 2015 SIP call for four categories of SIP provisions that provide full or limited exemptions for SSM events: (1) automatic exemptions; (2) director's discretion provisions; (3) overbroad enforcement discretion provisions; and (4) affirmative defense provisions. The D.C. Circuit held that the EPA impermissibly issued a SIP call for automatic and director's discretion exemptions, because the EPA was required to determine under CAA section 110(a)(2)(A) whether it was "necessary or appropriate" for the emissions restrictions at issue in the 2015 SIP call to qualify as emission limitations as defined by CAA section 302(k).²⁰⁰

Based on *Environmental Committee of the Florida Electric Power Coordination Group, Inc. v. EPA*, the EPA's evaluation of Utah's regional haze SIP submission

hinges on whether the emission restrictions contained in the SSM provision included in the regulatory portion of Utah's regional haze SIP submission are "emissions limitations . . . that are necessary to make reasonable progress"²⁰¹ toward the national goal of remedying and preventing anthropogenic visibility impairment at Class I areas. As explained below, the State has concluded that these provisions are emission limitations necessary to make reasonable progress under CAA sections 169A(b)(2) and 110(a)(2) and 40 CFR 51.308(f)(2); thus, CAA section 302(k) requires that they be continuous.

In its regional haze SIP submission, Utah, under CAA section 169A(b)(2) and 40 CFR 51.308(f)(2), selected seven sources, including Intermountain power plant, as sources whose emission limitations are measures necessary for reasonable progress.²⁰² For Intermountain power plant, the State is requiring existing emission limitations until the coal-fired units cease operations by December 31, 2027. In chapter 8.d (Reasonable Progress Determinations), Utah determined, and the EPA agrees, that it is necessary for Intermountain power plant to implement emission controls in the form of existing emission limitations to guarantee that Intermountain power plant will continue to implement existing measures and will not increase its emission rate before the scheduled shutdown of the coal-fired units.²⁰³ This is supported by chapter 6 (Long-Term Strategy for Second Planning Period of Utah's regional haze SIP submission).²⁰⁴ Chapter 6.A provides the long-term strategy requirements under 40 CFR 51.308(f)(2), including incorporation of emission limitations and schedules for compliance for Intermountain power plant and six other sources to achieve the reasonable progress goals.²⁰⁵ In addition, chapter 6.A.8 (Emissions Limitations and Schedules for Compliance to Achieve the RPG) states that "emissions limitations and schedules for compliance for the second planning period may be found in SIP subsection IX.H.23." ²⁰⁶ Section IX.H.23 is titled "Emission Limitations: Regional

²⁰¹ 40 CFR 51.308(f)(2). In addition, CAA section 169B(e)(2) authorized the EPA to promulgate the RHR (40 CFR 51.308) requiring states to revise their SIPs under CAA section 110, specifying that those SIPs must contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out these regulations.

²⁰² Utah regional haze SIP submission at 180.

²⁰³ *Id.* at 180.

²⁰⁴ *Id.* at 72.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at 88.

¹⁹⁶ CAA section 302(k).

¹⁹⁷ 80 FR 33840 (June 12, 2015).

¹⁹⁸ *Id.* at 33842, 33874. This type of exemption from a SIP emission limitation is referred to as an automatic exemption under the SSM policy, since the SSM provision in a SIP emission limitation automatically exempts excess emissions from the SIP emission limitation.

¹⁹⁹ 94 F.4th 77 (D.C. Cir. 2024).

²⁰⁰ *See* 94 F.4th at 100.

¹⁹³ 42 U.S.C. 7410(a)(2)(B), 7491(b)(2), 7492(e)(2). 1999 RHR, 64 FR 35714, 35743 (Jul. 1, 1999), and 2017 RHR revisions, 82 FR 3078 (Jan. 10, 2017).

¹⁹⁴ 1999 RHR, 64 FR 35714 (Jul. 1, 1999), and 2017 RHR Revisions, 82 FR 3078 (Jan. 10, 2017).

¹⁹⁵ 40 CFR 51.308(f)(2).

Haze Requirement, Reasonable Progress Control Measures” and provides the emission reduction measures, including emission limitations, for Intermountain power plant and other sources that are necessary to make reasonable progress for the second implementation period.²⁰⁷ While not all control measures qualify as emission limitations, in this instance, the EPA agrees with the State’s determination that these provisions are “emission limitations” that the State has concluded are necessary to make reasonable progress toward the national goal.²⁰⁸

When a state relies on an emission limitation as part of its SIP submission, the emission limitation must limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, as required under CAA section 302(k).²⁰⁹ The goal that Congress established for the visibility protection program is to prevent future and remedy existing anthropogenic visibility impairment in Class I areas.²¹⁰ When a state submits a SIP with an emission limitation to meet the CAA’s visibility requirements, the emission limitation needs to be continuous to ensure that visibility conditions at Class I areas are improving uninterrupted.²¹¹ Relying on an emission limitation that allows for uncontrolled excess emissions during SSM events could negatively impact a state’s ability to make reasonable progress toward meeting the national goal.

The Intermountain power plant emission limitations contained in SIP subsection IX, part H.23., “Source Specific Emission Limitations: Regional Haze Requirements, Reasonable Progress Controls,” include an automatic exemption for SSM events that occur when Intermountain power plant is operating prior to its closure.²¹² Parts H.23.c.i.B.I–III establish PM₁₀, NO_x, and SO₂ emission limitations for Intermountain power plant, while part H.23.c.i.B.IV provides that these emission limitations “apply at all times except for periods of startup, shutdown, malfunction (NO_x or PM₁₀ only), or emergency conditions (SO₂ only).”²¹³ This exemption means that emissions exceeding the normal operational limits under periods of SSM or emergency

conditions would not be considered to violate the emission limitations. The emission limitations for all of the other sources that Utah determined are necessary to make reasonable progress are continuous.²¹⁴ However, the SSM provision that is part of the Intermountain power plant emission limitations at H.23.c.i.B.IV has no defined parameters for the excess emissions that will occur during periods of SSM or emergency conditions,²¹⁵ making these emission limitations less than continuous. Because Utah has determined that the emission limitations for Intermountain power plant are measures necessary for reasonable progress, the emission limitations must be continuous at all times. Therefore, the emission limitations are inconsistent with the CAA and are not approvable for inclusion into the Utah SIP.

d. Unreasonable Rejection of Technically Feasible SO₂ Emissions Reduction Measures and Establishment of Unsupported Emission Limitations for Sunnyside Cogeneration Facility

As detailed in sections IV.C.d.i–ii. of this document, we also propose to disapprove Utah’s long-term strategy based on problems with the State’s evaluation of the measures necessary to make reasonable progress for Sunnyside Cogeneration Facility. First, the State unreasonably rejected dry scrubbing (also known as dry sorbent injection, or DSI),²¹⁶ a technically feasible SO₂ control, without providing adequate technical documentation. Second, the State did not provide adequate technical documentation to support the emission limitations for Sunnyside that it incorporated into its SIP.

i. Unreasonable Rejection of Technically Feasible SO₂ Emissions Reduction Measures

Sunnyside conducted an initial evaluation of additional SO₂ controls for its facility and eliminated spray dry absorbers, wet scrubbing, and hydrated ash reinjection as technically infeasible. Sunnyside found that dry scrubbing/DSI, an add-on retrofit control, was technically feasible. Dry scrubbing/DSI systems operate through the injection of a powdered sorbent, such as lime, into the flue gas downstream of the boiler.²¹⁷

Sunnyside noted the mechanical simplicity, ease of installation, limited water use, and simplicity of waste disposal associated with dry scrubbing/DSI systems.²¹⁸ Sunnyside conducted a four-factor analysis for dry scrubbing/DSI and calculated a cost/ton value of just over \$10,000/ton.²¹⁹

Utah identified multiple problems with Sunnyside’s cost analysis, which it found “improperly inflated the costs of a dry scrubber.”²²⁰ Among other issues, the State pointed out that Sunnyside did not adequately justify its application of a retrofit factor of 1.3 (which resulted in a 30% inflation of costs),²²¹ its use of a 20-year instead of a 30-year amortization period, and its inclusion of the costs of a new baghouse, which Sunnyside maintained would be necessary for a dry scrubbing/DSI system.²²²

In its October 2021 response to the State, Sunnyside abandoned its consideration of dry scrubbing/DSI, asserting that “[a]fter further evaluation, a dry scrubbing unit cannot be retrofitted between the [circulating fluidized bed] boiler and the existing baghouse due to space limitations requiring significant reconfiguration of existing equipment.”²²³ It concluded that a circulating dry scrubber/circulating fluidized bed scrubber (CDS/CFBS) was the only add-on SO₂ control technology that is potentially technically feasible.²²⁴ Sunnyside provided a new cost analysis for CDS/CFBS to replace its previous dry scrubbing/DSI analysis, calculating cost/ton values that ranged between \$27,890–\$118,553/ton based on minimum, average, and maximum cost scenarios.²²⁵ Those cost/ton values significantly exceeded that of the dry scrubbing/DSI system (just over \$10,000/ton), which Utah had already

circulating fluidized bed boiler. Utah regional haze SIP submission, appendix C.4.C at 5–6.

²¹⁸ Utah regional haze SIP submission, appendix C.4.A at 5–2–5–4.

²¹⁹ *Id.* at 5–5.

²²⁰ Utah regional haze SIP submission, appendix C.4.B at 15.

²²¹ Retrofit factors are used to quantify the additional costs of installation not directly related to the capital costs of the controls themselves, such as the unexpected magnitude of anticipated cost elements, the costs of unexpected delays, the cost of re-engineering and re-fabrication, and the cost of correcting design errors. EPA, Control Cost Manual, Chapter 2: Cost Estimation: Concepts and Methodology (Nov. 2017), at 27, available in the docket for this action.

²²² Utah regional haze SIP submission, appendix C.4.B at 15–19.

²²³ Utah regional haze SIP submission, appendix C.4.C at 7.

²²⁴ *Id.*

²²⁵ Utah regional haze SIP submission, appendix D.2.I at 2–3 (section titled “Total Installed Cost for Circulating Dry Scrubber (CDS)”).

²⁰⁷ Utah regional haze SIP submission, appendix A, part H.23.

²⁰⁸ Utah regional haze SIP submission at 180.

²⁰⁹ CAA section 110(a)(2)(A), section 302(k).

²¹⁰ CAA section 169A(a)(1).

²¹¹ CAA sections 110(a)(2)(A), 169A, 169B(e)(2), and 302(k); 40 CFR 51.308(f).

²¹² Utah regional haze SIP submission, appendix A, part H.23.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ The documents in the record use several terms to refer to this control technology, including dry scrubbing, dry scrubbers, dry sorbent injection (DSI), and dry injection.

²¹⁷ Sunnyside clarified that dry scrubbing is an add-on technology that is separate from its existing practice of injecting limestone directly into the

determined was likely overestimated. Utah ultimately accepted Sunnyside's analyses and concluded that CDS/CFBS was not necessary for reasonable progress.

Sunnyside did not submit any documentation to substantiate the space constraints that led it to exclude dry scrubbing/DSI from further consideration as an emission reduction measure necessary to make reasonable progress. Its appeal to space limitations consisted of a single conclusory sentence with no supporting details or explanation.²²⁶ The National Park Service commented that Sunnyside had not adequately explained why there would be insufficient space for a dry scrubbing/DSI system but not for a CDS/CFBS system.²²⁷ Conservation organizations presented a similar criticism, pointing out that DSI involves injecting sorbent into the flue gas ductwork between the air preheater and the baghouse, which should not present any space limitations.²²⁸ Although Sunnyside submitted two letters to the State responding specifically to comments raised by the National Park Service and the conservation organizations, it did not address their points about its failure to substantiate the purported space constraints on a dry scrubber/DSI system.²²⁹ While Utah responded that Sunnyside had adequately demonstrated infeasibility based on the lack of physical space and air flow mechanics described in the facility's May 27, 2022 submission,²³⁰ the information in that submission pertains to CDS/CFBS and not to the dry scrubber/DSI system that Sunnyside rejected in its October 2021 submission.²³¹

Based on our review of the materials in the record, we find that Utah has not provided adequate technical documentation justifying the exclusion of a dry scrubber/DSI system from further consideration based on space constraints. And because Sunnyside abandoned its evaluation of the dry scrubber/DSI system in favor of CDS/CFBS, it never prepared a revised cost

analysis remedying the shortcomings Utah had initially identified. As a result, Utah did not satisfy 40 CFR 51.308(f)(2)(iii)'s requirement to document the technical basis, including modeling, monitoring, cost, engineering, and emissions information on which it is relying. For these reasons, we propose to disapprove Utah's long-term strategy because the State did not reasonably evaluate and determine the emission reduction measures for Sunnyside that are necessary to make reasonable progress, as required by CAA section 169A and 40 CFR 51.308(f)(2).

ii. Unsupported Emission Limitations for Making Reasonable Progress

We are also proposing to disapprove Utah's long-term strategy because the State did not provide adequate technical documentation to support the emission limitations it incorporated into its SIP for Sunnyside Cogeneration Facility. In its regional haze SIP submission, Utah determined that the existing control measures and emission limitations at Sunnyside are necessary to achieve reasonable progress in the second implementation period and incorporated those limitations into its SIP.²³² However, the SIP incorporates two separate emission limitations for both NO_x and SO₂: one that applies during normal boiler operation and one that applies during SSM events.²³³

Utah neither included a definition of the term "normal boiler operations" nor provided any documentation of the frequency of normal boiler operations versus SSM events, making it difficult to determine what combination of emission limitations under normal boiler operations and SSM events Utah has determined are necessary to make reasonable progress. Based on the analysis that Utah submitted for Sunnyside, we cannot determine whether the State concluded that the "existing controls and emissions limits for the Sunnyside Cogeneration Facility. . . necessary for reasonable

progress"²³⁴ are based on Sunnyside operating continuously at the higher SSM emission limitation or on some other operational scenario. Because Utah did not provide adequate technical documentation explaining how the alternative SSM emission limitation relates to the State's obligation to make reasonable progress, we propose to disapprove Utah's long-term strategy under CAA section 169A and 40 CFR 51.308(f)(2).

e. Other Long-Term Strategy Requirements Under 40 CFR 51.308(f)(2)(ii) Through (iv)

States must also meet the requirements specified in 40 CFR 51.308(f)(2)(ii) through (iv) when developing their long-term strategies. 40 CFR 51.308(f)(2)(ii) requires states to consult with other states (states that have emissions that are reasonably anticipated to contribute to visibility impairment in Class I areas) to develop coordinated emission management strategies. Utah engaged with other states throughout the development of its regional haze SIP submission by participating in WRAP regional haze workgroup meetings. Additionally, Utah directly communicated with other states about the SIP submittal, including Arizona, Colorado, Idaho, New Mexico, Nevada, and Wyoming.²³⁵

The regulation at 40 CFR 51.308(f)(2)(iii) requires states to document the technical basis, including modeling, monitoring, costs, engineering, and emissions information, on which the state is relying to determine the emission reduction measures that are necessary to make reasonable progress in each mandatory Class I area it impacts. Utah relied on WRAP technical information, modeling, and analysis to support the development of its long-term strategy.

The regulation at 40 CFR 51.308(f)(2)(iv) specifies five additional factors states must consider in developing their long-term strategies. The five additional factors are: emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; measures to mitigate the impacts of construction activities; source retirement and replacement schedules; basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and the anticipated net effect on visibility due to projected changes in point, area, and

²²⁶ Utah regional haze SIP submission, appendix C.4.C at 7.

²²⁷ Utah regional haze SIP submission, appendix D.I at 34. The National Park Service referred to dry scrubbing as a dry sorbent injection (DSI) system.

²²⁸ National Parks Conservation Association et al., "Comments on Utah's Proposed Regional Haze State Implementation Plan for the 2nd Implementation Period" (May 31, 2022) at 36; exhibit A at 43.

²²⁹ Utah regional haze SIP submission, appendices D.2.G and D.2.I.

²³⁰ Utah regional haze SIP submission, appendix H at 668.

²³¹ Utah regional haze SIP submission, appendix D.2.G at 5–7.

²³² Utah regional haze SIP submission at 179.

²³³ Part H.23(f) states: "i. Emissions of NO_x (during normal boiler operation not including startup, shutdown and malfunction) shall not exceed 0.25 lb per MMBtu heat input on a 30-day rolling average. ii. Emissions of NO_x (including startup, shutdown and malfunction) shall not exceed 0.6 lb per 10 – 6 BTU heat input on a 30-day rolling average. iii. Emissions of SO₂ (during normal boiler operation not including startup, shutdown and malfunction) shall not exceed 0.42 lb per MMBtu heat input on a 30-day rolling average and 462 lb per hour on a 3-hour block average. Emissions of SO₂ (including startup, shutdown and malfunction) shall not exceed 1.2 lb per 10 – 6 BTU heat input on a 30-day rolling average." Utah regional haze SIP submission, appendix A, section IX, part H.23(f).

²³⁴ Utah regional haze SIP submission at 179.

²³⁵ *Id.* at 181–83 and appendix B.

mobile source emissions over the period addressed by the long-term strategy. Utah described each of the five additional factors in sections 6.A.5. through 6.A.10. of its regional haze SIP submission.

Regardless, as explained in the preceding sections of this document, due to flaws and omissions in its four-factor analyses and the resulting control determinations, the EPA finds that Utah did not submit a long-term strategy that includes “the enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress” as required by 40 CFR 51.308(f)(2).²³⁶ Consequently, we find that Utah’s regional haze SIP submission does not satisfy the long-term strategy requirements of 40 CFR 51.308(f)(2). Therefore, the EPA proposes to disapprove all elements of Utah’s regional haze SIP submission that relate to § 51.308(f)(2)’s long-term strategy requirements.

f. Implications of Senate Bill 161

On March 21, 2024, the Governor of Utah signed legislation titled “Senate Bill 161” (SB 161),²³⁷ which includes a provision that requires entities that own coal-fired electric generating facilities that are slated to be decommissioned, such as Intermountain power plant, to continue operations through the establishment of a transitional and alternative permit process. SB 161 also prescribes the authority and process for the State of Utah to purchase these facilities and auction them to continue operations. On June 21, 2024, the Governor of Utah signed House Bill 3004, which revises SB 161.²³⁸ Specifically, House Bill 3004 revises the alternative permitting process for electric generating facilities that are slated for decommissioning. As submitted, Utah’s regional haze SIP submission incorporates the retirement of two coal-fired units at Intermountain power plant with a closure date of no later than December 31, 2027. We

recognize there is uncertainty related to the legislation, alternative permitting process, and potential changes in ownership, as well as any ensuing litigation that could potentially occur during and after the EPA’s rulemaking on Utah’s regional haze SIP submission. We are seeking comment on the potential impact of the existing language in SB 161 and HB 3004 on Utah’s regional haze SIP provision incorporating the two coal-fired unit retirements at Intermountain power plant, including any implications related to compliance with CAA section 110(a)(2)(E).

D. Reasonable Progress Goals

The EPA proposes to find that Utah did not meet the reasonable progress goal requirements under 40 CFR 51.308(f)(3). Section 51.308(f)(3)(i) requires a state in which a Class I area is located to establish RPGs—one each for the most impaired and clearest days—reflecting the visibility conditions that will be achieved at the end of the implementation period as a result of the emission limitations, compliance schedules and other measures required under paragraph (f)(2) in states’ long-term strategies, as well as implementation of other CAA requirements.

After establishing its long-term strategy, Utah developed reasonable progress goals for each Class I area for the 20% most impaired days and 20% clearest days based on the results of 2028 WRAP modeling.²³⁹ The reasonable progress goals are based on Utah’s long-term strategy, the long-term strategy of other states that may affect Class I areas in Utah, and other CAA requirements.

Per 40 CFR 51.308(f)(3)(iv), the EPA must evaluate the demonstrations the State developed pursuant to 40 CFR 51.308(f)(2) to determine whether the State’s reasonable progress goals for visibility improvement provide for reasonable progress towards natural visibility conditions. As previously explained in section IV.C.2. of this document, we are proposing to disapprove Utah’s long-term strategy for not meeting the requirements of 40 CFR 51.308(f)(2). Therefore, we also propose to disapprove Utah’s reasonable progress goals under 40 CFR 51.308(f)(3) because compliance with that requirement is dependent on compliance with 40 CFR 51.308(f)(2).

E. Reasonably Attributable Visibility Impairment (RAVI)

The RHR contains a requirement at 40 CFR 51.308(f)(4) related to any additional monitoring that may be needed to address visibility impairment in Class I areas from a single source or a small group of sources. This is called “reasonably attributable visibility impairment,”²⁴⁰ also known as RAVI. Under this provision, if the EPA or the FLM of an affected Class I area has advised a state that additional monitoring is needed to assess RAVI, the state must include in its SIP revision for the second implementation period an appropriate strategy for evaluating such impairment. The EPA has not advised Utah to that effect, and the FLMs for the Class I areas that Utah contributes to have not identified any RAVI from sources located in Utah.²⁴¹ Accordingly, the EPA proposes to approve the portions of Utah’s regional haze SIP submission relating to 40 CFR 51.308(f)(4).

F. Monitoring Strategy and Other State Implementation Plan Requirements

Section 51.308(f)(6) specifies that each comprehensive revision of a state’s regional haze SIP must contain or provide for certain elements, including monitoring strategies, emissions inventories, and any reporting, recordkeeping and other measures needed to assess and report on visibility. A main requirement of this section is for states with Class I areas to submit monitoring strategies for measuring, characterizing, and reporting on visibility impairment. Compliance with this requirement may be met through participation in the IMPROVE network. Utah participates in the IMPROVE monitoring network.

Section 51.308(f)(6)(i) requires SIPs to provide for the establishment of any additional monitoring sites or equipment needed to assess whether reasonable progress goals to address regional haze for all mandatory Class I Federal areas within the state are being achieved. As we stated in the 2017 RHR Revisions, “neither the EPA nor any state has concluded that the IMPROVE network is not sufficient in this way.”²⁴² The EPA is not aware of information suggesting that the IMPROVE monitors within Utah Class I areas are no longer sufficient to assess

²³⁶ See also CAA section 169A(b)(2), section 169A(b)(2)(B) (requiring regional haze SIPs to “contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal, . . . including . . . a long-term . . . strategy for making reasonable progress[.]”).

²³⁷ The enrolled copy of SB 161 is available in the docket for this action. Additional information on SB 161 can be found on the Utah State Legislature’s website: <https://le.utah.gov/~2024/bills/static/SB0161.html> (last accessed July 24, 2024).

²³⁸ The enrolled copy of House Bill 3004 is available in the docket for this action. Additional information on House Bill 3004 can be found on the Utah State Legislature’s website: <https://le.utah.gov/~2024S3/bills/static/HB3004.html> (last accessed July 24, 2024).

²³⁹ Utah regional haze SIP submission at 172–180.

²⁴⁰ The EPA’s visibility protection regulations define “reasonably attributable visibility impairment” as “visibility impairment that is caused by the emission of air pollutants from one, or a small number of sources.” 40 CFR 51.301.

²⁴¹ Utah regional haze SIP submission at 81.

²⁴² 82 FR 3085.

the status of reasonable progress goals. Therefore, the EPA finds that Utah has satisfied 40 CFR 51.308(f)(6)(i).

Section 51.308(f)(6)(ii) requires SIPs to provide for procedures by which monitoring data and other information are used in determining the contribution of emissions from within the state to regional haze visibility impairment at mandatory Class I Federal areas both within and outside the state. Chapters 4, 5, 6, 7, and 8 of the Utah regional haze SIP submission describe various analytical methods and tools the State relied on to assess the quantitative impact of Utah emissions on in-state and out-of-state Class I areas. IMPROVE monitoring data and the State's emissions inventory data were used, in many instances, as inputs to the tools and products available in WRAP's TSS, such as the CAMx Particle Source Apportionment tool (PSAT) photochemical model used to assess Utah's contributions to light extinction at Class I areas. Due to the State's reliance on the WRAP TSS products and other analytical methods and tools, as described in chapters 4, 5, 6, 7, and 8 of the Utah regional haze SIP submission, we determine that Utah has satisfied 40 CFR 51.308(f)(6)(ii).

Section 51.308(f)(6)(iii) does not apply to Utah, as it has Class I areas.

Section 51.308(f)(6)(iv) requires the SIP to provide for the reporting of all visibility monitoring data to the Administrator at least annually for each Class I area in the state. Utah's monitoring strategy relies on the IMPROVE network, whose monitors at Utah's Class I areas are operated and maintained by the National Park Service. The IMPROVE Steering committee and Data Analysis and Reporting subcommittee develop policies to generate and distribute IMPROVE data, metadata, and data products. That data is made available on IMPROVE, FLM, and the EPA Air Quality System databases. We find that Utah has satisfied 40 CFR 51.308(f)(6)(iv).

Section 51.308(f)(6)(v) requires SIPs to provide for a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment, including emissions for the most recent year for which data are available and estimates of future projected emissions. It also requires a commitment to update the inventory periodically. Utah provides for emissions inventories and estimates of future projected emissions by participating in WRAP and complying with the EPA's AERR. In 40 CFR part 51, subpart A, the AERR requires states to submit updated

emissions inventories for criteria pollutants to the EPA's EIS annually or triennially depending on the source type. The EPA uses the inventory data from the EIS to develop the National Emissions Inventory (NEI), which is a comprehensive estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources. The EPA releases an NEI every three years. Section 5.E of the Utah regional haze SIP submission includes tables of statewide NEI data.²⁴³ Anthropogenic emissions and natural emissions are tabulated under various source categories. The inventories account for emissions of SO₂, NO_x, VOC, PM_{2.5}, PM₁₀, and NH₃. Utah also relied on WRAP's projected future inventories of emissions under different modeling scenarios for 2028.^{244 245} The EPA finds that Utah has met the requirements of 40 CFR 51.308(f)(6)(v) through its ongoing compliance with the AERR, its compilation of a statewide emissions inventory based on NEI data, its use of WRAP modeling to project future emissions, and its commitment to update its inventory periodically.

Finally, 40 CFR 51.308(f)(6)(vi) requires the SIP to provide for any other elements, including reporting, recordkeeping, and other measures, that are necessary for states to assess and report on visibility. Utah assesses and reports on visibility through participation in the IMPROVE network. The EPA finds that Utah has satisfied the requirements of 40 CFR 51.308(f)(6)(vi) and that no further elements are necessary at this time for Utah to assess and report on visibility.

In sum, for all the reasons discussed in this section IV.F., the EPA is proposing to approve Utah's Regional Haze SIP submission as meeting the applicable requirements of 40 CFR 51.308(f)(6).

G. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals

The regulation at 40 CFR 51.308(f)(5) requires that periodic comprehensive revisions of states' regional haze plans also address the progress report requirements of 40 CFR 51.308(g)(1) through (5). The purpose of these requirements is to evaluate progress

towards the applicable RPGs for each Class I area within the state and each Class I area outside the state that may be affected by emissions from within that state. Section 51.308(g)(1) and (2) apply to all states and require a description of the status of implementation of all measures included in a state's first implementation period regional haze plan and a summary of the emission reductions achieved through implementation of those measures. Section 51.308(g)(3) applies only to states with Class I areas within their borders and requires such states to assess current visibility conditions, changes in visibility relative to baseline (2000–2004) visibility conditions, and changes in visibility conditions relative to the period addressed in the first implementation period progress report. Section 51.308(g)(4) applies to all states and requires an analysis tracking changes in emissions of pollutants contributing to visibility impairment from all sources and sectors since the period addressed by the first implementation period progress report. This provision further specifies the year or years through which the analysis must extend depending on the type of source and the platform through which its emission information is reported. Finally, § 51.308(g)(5), which also applies to all states, requires an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred since the period addressed by the first implementation period progress report, including whether such changes were anticipated and whether they have limited or impeded expected progress towards reducing emissions and improving visibility.

Utah included the progress report required by 40 CFR 51.308(f)(5) in its regional haze SIP submission. Utah addresses each of the elements specified in 40 CFR 51.308(g)(1) through (5) in chapter 3 of the state's SIP.

To address 40 CFR 51.308(g)(1), Utah details the status of all control measures implemented during the first implementation period, including emission reduction measures at Hunter, Huntington, and Carbon. To address 40 CFR 51.308(g)(2), Utah indicates that the retirement of Carbon Units 1 and 2 resulted in total SO₂ reductions of 8,005 tpy; unit level reductions were 3,388 tpy of SO₂ at Unit 1 and 4,617 tpy of SO₂ at Unit 2. Other reductions are detailed in chapter 5.

To address 40 CFR 51.308(g)(3), Utah refers to chapter 4 of the SIP, which contains its Utah Visibility Analysis. Table 9 within chapter 4 tabulates the

²⁴³ Utah regional haze SIP submission at 66–70 (tables 15–20).

²⁴⁴ WRAP's modeling methodology used to develop the projected emissions inventories is described in "WRAP Technical Support System for Regional Haze Planning: Modeling Methods, Results, and References" (Sept. 30, 2021), available in the docket for this action.

²⁴⁵ Utah regional haze SIP submission at 66–70 (tables 15–20).

progress in visibility conditions for the clearest and most impaired days at Utah's Class I areas over the baseline period (2000–2004), first implementation period (2008–2012), and current period (2014–2018).

To address 40 CFR 51.308(g)(4), Utah provides an emissions trend analysis of visibility-impairing pollutants from all emissions sources within the State. It also refers to section 5.E of its SIP submission, which compares historical and recent emissions to future projected emissions of visibility-impairing pollutants at Utah's Class I areas.

To address 40 CFR 51.308(g)(5), Utah provides a Western states EGU emissions trend analysis for NO_x and SO₂, which indicates an overall downward trend due to EGU retirements and new pollution controls. Table 3 tabulates changes in emissions over years 1996, 2002, and 2018 for the nine member states of the Grand Canyon Visibility Transport Commission. The table shows that emissions of VOC, NO_x, SO₂, and PM_{2.5} declined, while emissions of coarse material increased.

In sum, because Utah addressed the requirements of 40 CFR 51.308(g)(1) through (5), the EPA is proposing to approve chapter 3 of Utah's Regional Haze SIP as meeting the requirements of 40 CFR 51.308(f)(5) and (g) for periodic progress reports.

H. Requirements for State and Federal Land Manager Coordination

Section 169A(d) of the Clean Air Act requires states to consult with FLMs before holding the public hearing on a proposed regional haze SIP, and to include a summary of the FLMs' conclusions and recommendations in the notice to the public. In addition, § 51.308(i)(2)'s FLM consultation provision requires a state to provide FLMs with an opportunity for consultation that is early enough in the state's policy analyses of its emission reduction obligation so that information and recommendations provided by the FLMs' can meaningfully inform the state's decisions on its long-term strategy. If the consultation has taken place at least 120 days before a public hearing or public comment period, the opportunity for consultation will be deemed early enough. Regardless, the opportunity for consultation must be provided at least sixty days before a public hearing or public comment period at the state level. Section 51.308(i)(2) also provides two substantive topics on which FLMs must be provided an opportunity to discuss with states: assessment of visibility impairment in any Class I area and recommendations on the development

and implementation of strategies to address visibility impairment. Section 51.308(i)(3) requires states, in developing their implementation plans, to include a description of how they addressed FLMs' comments.

Utah DAQ met with the FLMs (the National Park Service and the U.S. Forest Service) throughout the second implementation period planning process.²⁴⁶ Utah provided its draft SIP to the FLMs in December 2021. In February 2022, the FLMs provided detailed comment letters to Utah DAQ on the draft SIP²⁴⁷ and met with Utah DAQ to present their feedback. Utah DAQ responded to the FLM comments and included the responses in its SIP submission.²⁴⁸

Compliance with 40 CFR 51.308(i) is dependent on compliance with 40 CFR 51.308(f)(2)'s long-term strategy provisions and paragraph (f)(3)'s reasonable progress goals provisions. Because the EPA is proposing to disapprove Utah's long-term strategy under 40 CFR 51.308(f)(2) and the reasonable progress goals under 40 CFR 51.308(f)(3), the EPA is also proposing to disapprove the State's FLM consultation under 40 CFR 51.308(i). While Utah did take administrative steps to provide the FLMs the opportunity to review and provide feedback on the State's initial draft regional haze SIP, the EPA cannot approve that consultation because it was based on a plan that does not meet the statutory and regulatory requirements of the CAA and the RHR, as described in this notice of proposed rulemaking. In addition, if the EPA finalizes our proposed partial approval and partial disapproval of Utah's regional haze SIP submission, the State (or the EPA in the potential case of a FIP) will be required to again complete the FLM consultation requirements under 40 CFR 51.308(i). Therefore, the EPA proposes to disapprove the FLM consultation component of Utah's regional haze SIP submission for failure to meet the requirements of 40 CFR 51.308(i), as outlined in this section.

V. Interstate Transport Prong 4 (Visibility) for the 2015 Ozone NAAQS Infrastructure SIP

A. Background on Infrastructure SIPs

Under CAA sections 110(a)(1) and 110(a)(2), each state is required to submit a SIP that provides for the implementation, maintenance, and enforcement of each primary or

secondary NAAQS. Moreover, CAA sections 110(a)(1) and 110(a)(2) require each state to make this new SIP submission within three years (or less, if the Administrator so prescribes) after promulgation of a new or revised NAAQS. This type of SIP submission is commonly referred to as an "infrastructure SIP." The overall purpose of the infrastructure SIP requirements is to ensure that the necessary structural components of each state's air quality management program are adequate to meet the state's responsibilities for the new or revised NAAQS. Overall, the infrastructure SIP submission process provides an opportunity for the responsible air agency, the public, and the EPA to review the basic structural requirements of the air agency's air quality management program in light of each new or revised NAAQS.

CAA section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). CAA section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as "prongs," that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in CAA section 110(a)(2)(D)(i)(I), prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in CAA section 110(a)(2)(D)(i)(II), prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4).

B. Prong 4 Requirements

CAA section 110(a)(2)(D)(i)(II) requires SIPs to contain provisions prohibiting sources in a state from emitting pollutants in amounts that interfere with any other state's efforts to protect visibility under part C of the CAA (which includes sections 169A and 169B). The EPA issued guidance on infrastructure SIPs in a September 13, 2013 memorandum from Stephen D. Page titled "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)" ("2013 Guidance"). The 2013 Guidance states that these prong 4 requirements can be satisfied by approved SIP provisions that the EPA has found to adequately address any contribution of that state's sources that impact the visibility

²⁴⁶ Utah regional haze SIP submission at 186.

²⁴⁷ Utah regional haze SIP submission, appendices D.I and D.3.

²⁴⁸ Utah regional haze SIP submission at 187–194.

program requirements in other states.²⁴⁹ The 2013 Guidance also states that “[t]he EPA interprets this prong to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.”²⁵⁰

The 2013 Guidance lays out how a state’s infrastructure SIP may satisfy prong 4. In the second implementation period, confirmation that the state has a fully approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309 will satisfy the requirements of prong 4.²⁵¹ The regulations at 40 CFR 51.308 and 51.309 “specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process.”²⁵² A fully approved regional haze SIP²⁵³ will ensure that emissions from sources under an air agency’s jurisdiction are not interfering with measures required to be included in other air agencies’ plans to protect visibility.

Through this action, the EPA is proposing to disapprove the prong 4 portion of Utah’s 2020 ozone infrastructure SIP submittal. All other applicable infrastructure SIP requirements for that SIP submission have been addressed in separate rulemakings.²⁵⁴

On October 26, 2015, the EPA revised the 8-hour ozone NAAQS to 70 parts per billion.²⁵⁵ States were required to submit infrastructure SIPs within three years of promulgation of the revised NAAQS. On October 24, 2019, the State of Utah submitted a SIP revision to the EPA addressing the CAA sections 110(a)(1) and (2) infrastructure requirements for the 2015 ozone NAAQS, including CAA section

110(a)(2)(D)(i)(II) prong 4. The EPA evaluated this submission for completeness pursuant to the criteria in 40 CFR part 51, appendix V, and concluded that it was incomplete because Utah had not provided the necessary certification under section 2.1(g) of appendix V that a public hearing was held or provided the opportunity for the public to request a public hearing in accordance with 40 CFR 51.102(a). On November 21, 2019, the EPA sent a letter to Utah explaining our incompleteness determination.²⁵⁶ On January 29, 2020, Utah submitted a new SIP revision addressing the infrastructure requirements for the 2015 ozone NAAQS (“2020 ozone infrastructure SIP submittal”), including CAA section 110(a)(2)(D)(i)(II) prong 4.²⁵⁷ This proposed rulemaking only addresses the prong 4 element of the 2020 Ozone infrastructure SIP submittal.

C. Utah’s Prong 4 Elements

To satisfy the prong 4 requirements for the 2015 ozone NAAQS, Utah’s 2020 ozone infrastructure SIP submittal points to the EPA’s initial disapproval action, subsequent litigation, and the State’s then-forthcoming submission to meet the requirements of the first regional haze implementation period. This history, including the final approval action the EPA ultimately took on November 27, 2020,²⁵⁸ is discussed in section II.C. of this document.

D. The EPA’s Evaluation of Utah’s Submittal

The EPA acknowledges that Utah has a fully approved regional haze SIP for the first implementation period, which the State relied on to satisfy prong 4 in the 2020 ozone infrastructure SIP submittal. However, the EPA is proposing to partially disapprove Utah’s regional haze SIP submission for the second implementation period, as discussed in section IV. of this document. Therefore, Utah cannot rely on a fully approved regional haze SIP to fulfill the prong 4 requirements for the 2015 ozone NAAQS. Consequently, the EPA is proposing to disapprove the prong 4 portion of Utah’s 2020 ozone infrastructure SIP submittal.

²⁵⁶ The EPA’s November 21, 2019 letter to the State of Utah is included in the docket for this action.

²⁵⁷ The EPA is not proposing any action on the 2008 ozone portion of Utah’s January 29, 2020 submittal, or on any of the other infrastructure elements apart from those portions submitted to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS.

²⁵⁸ 85 FR 75860.

VI. Proposed Action

For the reasons discussed in this document, the EPA is proposing to partially approve and partially disapprove Utah’s regional haze SIP submission for the second implementation period. We are proposing to approve the portions of the SIP submission relating to 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress; (f)(4): reasonably attributable visibility impairment; (f)(5): progress report requirements; and (f)(6): monitoring strategy and other implementation plan requirements. The EPA is proposing to disapprove the remainder of the SIP submission, which addresses 40 CFR 51.308(f)(2): long-term strategy; (f)(3): reasonable progress goals; and (i): FLM consultation.

Additionally, as consequence of our proposed partial disapproval of Utah’s regional haze SIP submission, the EPA is proposing to disapprove the prong 4 portion of Utah’s infrastructure SIP for the 2015 ozone NAAQS, pursuant to CAA section 110(a)(2)(D)(i)(II).

VII. Environmental Justice

As explained in EPA Legal Tools to Advance Environmental Justice and the 2021 Clarifications Memo, CAA section 169A and the RHR provide states with discretion to consider environmental justice (EJ) in developing rules and measures related to regional haze.²⁵⁹ Utah exercised this discretion, as described in this document. In section 7.A.5 of its regional haze SIP submission, Utah explained that it considered EJ during source screening “to ensure sources within disproportionately affected areas are included in the four-factor analysis process.”²⁶⁰ Utah used EJScreen, an EPA-developed EJ mapping and screening tool that provides a nationally consistent dataset and approach for combining various environmental and demographic indicators.²⁶¹ Utah prepared EJScreen reports covering buffer areas of 20 miles around the ten facilities initially screened in for four-factor analysis. The results of Utah’s EJScreen analysis are set forth in section 7.A.5 of the SIP submission. The analysis showed environmental and socioeconomic indicators at or above

²⁵⁹ EPA Legal Tools to Advance Environmental Justice (May 2022) is available at: <https://www.epa.gov/system/files/documents/2022-05/EJ%20Legal%20Tools%20May%202022%20FINAL.pdf>; 2021 Clarifications Memo at 16.

²⁶⁰ Utah regional haze SIP submission at 122.

²⁶¹ The EJSCREEN tool is available at <https://www.epa.gov/ejscreen>.

²⁴⁹ 2013 Guidance at 32–33.

²⁵⁰ *Id.* at 33.

²⁵¹ The EPA acknowledges that in the 2013 Guidance, we indicated that the EPA may find it appropriate to supplement the guidance regarding the relationship between regional haze SIPs and prong 4 after second implementation period SIPs become due, which occurred on July 31, 2021. After a review of the 2013 Guidance and the second implementation period regional haze requirements, the EPA maintains the interpretation that a fully approved regional haze SIP satisfies prong 4 requirements in the second implementation period.

²⁵² 2013 Guidance at 33.

²⁵³ Since second implementation period SIPs became due, a “fully approved regional haze SIP” would necessarily include fully approved first and second implementation period regional haze SIPs.

²⁵⁴ See 85 FR 57731 (Sept. 16, 2020) and 88 FR 9336 (Feb. 13, 2023).

²⁵⁵ 80 FR 65292 (Oct. 26, 2015).

the 80% percentile at the state level (meaning that 20% of Utah's population has a higher value) for Ash Grove Leamington Cement Plant, Graymont Western Cricket Mountain, PacifiCorp Hunter, PacifiCorp Huntington, Sunnyside Cogeneration, US Magnesium Rowley Plant, Intermountain power plant, Kennecott Power Plant, Kennecott Mine and Copperton Concentrator, and CCI Paradox Lisbon Natural Gas Plant. Utah stated that it "was not able to draw significant conclusions from this analysis affecting the reasonable progress determinations made in this SIP revision."²⁶²

The EPA also conducted an EJ screening analysis using the latest version of EJScreen (Version 2.3) around the coordinate locations of the facilities associated with Utah's regional haze SIP submission to identify potential environmental stressors on communities. The EPA is providing the information associated with this analysis for informational purposes only; it does not form any part of the basis of this proposed action. Consistent with our notices of proposed rulemaking on regional haze SIP submissions by other states within EPA Region 8, the EPA prepared EJScreen reports covering buffer areas of approximately six miles around the ten facilities included in Utah's EJ analysis. The following facilities showed EJ indicators greater than the 80th national percentiles (meaning that 20 percent of the U.S. population has a higher value): Ash Grove Leamington Cement Plant (drinking water non-compliance); Kennecott Power Plant (ozone, toxic releases to air, Superfund proximity, wastewater discharge); and Sunnyside Cogeneration (ozone, lead paint, drinking water non-compliance).²⁶³ The full, detailed EJScreen reports are provided in the docket for this rulemaking. There is nothing in the record indicating that this proposed action, if finalized, would have disproportionately high or adverse human health or environmental effects on communities with EJ concerns. EJ is further discussed in section VIII. of this document.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to partially approve and partially disapprove the state's SIP submission as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address disproportionately high and adverse human health or environmental effects of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines EJ as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The EPA further defines the term fair treatment to mean that no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.

Utah evaluated EJ considerations as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. A summary of Utah's EJ considerations is contained in section VII. of this document. The EPA also performed an EJ analysis, as described above in section VII. of this document. Both Utah's and the EPA's analyses were done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. The EPA is taking action under the CAA on bases independent of Utah's evaluation of EJ. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 13, 2024.

KC Becker,

Regional Administrator, Region 8.

[FR Doc. 2024-18462 Filed 8-16-24; 8:45 am]

BILLING CODE 6560-50-P

²⁶² Utah regional haze SIP submission at 122.

²⁶³ The EPA identified the 80th percentile filter as an initial starting point for interpreting EJScreen results. The use of an initial filter promotes consistency for the EPA's programs and regions when interpreting screening results.

Reader Aids

Federal Register

Vol. 89, No. 160

Monday, August 19, 2024

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000**

Laws **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000**

The United States Government Manual **741-6000**

Other Services

Electronic and on-line services (voice) **741-6020**

Privacy Act Compilation **741-6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: www.govinfo.gov.

Federal Register information and research tools, including Public Inspection List and electronic text are located at: www.federalregister.gov.

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, AUGUST

62653-63072.....	1
63073-63280.....	2
63281-63812.....	5
63813-64352.....	6
64353-64778.....	7
64779-65164.....	8
65165-65514.....	9
65515-65754.....	12
65755-65988.....	13
65989-66180.....	14
66181-66542.....	15
66543-66986.....	16
66987-67256.....	19

CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

700.....63073

Proposed Rules:

700.....63111

3 CFR

Proclamations:

10789.....64779

10790.....66181

Administrative Orders:

Memorandums:

Memorandum of July

3, 2024.....64343

Memorandum of July

11, 2024.....64345

Memorandum of July

19, 2024.....64347

Memorandum of July

29, 2024.....64349

Memorandum of

August 5, 2024.....64781

Notices:

Notice of August 6,

2024.....65163

Notice of August 13,

2024.....66187

Presidential

Determinations:

No. 2024-08 of July

26, 2024.....64351

7 CFR

205.....64783

354.....66543

622.....65989

761.....65020

762.....65020

764.....65020

765.....65020

766.....65020

768.....65020

769.....65020

770.....65020

930.....65515

959.....63079

3555.....66189

Proposed Rules:

984.....66639

8 CFR

212.....65165

9 CFR

Proposed Rules:

381.....64678

10 CFR

50.....64353

51.....64166, 65755

52.....64353

54.....64353

72.....63813

430.....65520

Proposed Rules:

50.....65226

52.....65226

73.....65226

11 CFR

Proposed Rules:

100.....62670, 62671

104.....62672

106.....62670, 62671

109.....62670, 62671

110.....62670, 62671

111.....62673

300.....62670, 62671

12 CFR

34.....64538

225.....64538

303.....64353

308.....64353

323.....64538

330.....65166

722.....64538

741.....64538

Ch. X.....65170

1026.....64538

1222.....64538

Proposed Rules:

Ch. I.....62679

21.....65264

Ch. II.....62679

208.....65242

Ch. III.....62679

303.....67002

326.....65242

354.....65556

748.....65242

13 CFR

120.....65174

125.....62653

128.....62653

14 CFR

25.....66543

39.....63813

71.....63082, 64785, 65758,

66194, 66196, 66199, 66200,

66545, 66987, 66988

95.....65759

97.....63281, 63282

129.....66546

259.....65534

260.....65534

399.....65534

Proposed Rules:

21.....65264

25.....63111, 63845

39.....62685, 64834, 64837,

65264, 65567, 65270, 65568,

66642, 67009

71.....63114, 63116, 63329,

64840, 66290	938 64797, 64801, 66563,	66015, 66291, 66295, 66659,	25 63381
73 62688	66989	66661, 67012, 67014, 67018,	54 65576
129 66645	944 66218	67208	64 64843
259 65272	948 64801	70 66662	73 63381, 64851
261 65272		84 65575, 66029	76 63381
16 CFR	31 CFR	180 64842	79 63135
1 66546	587 65994	282 63134	
Proposed Rules:	Proposed Rules:	300 66665	48 CFR
1112 65791	210 65296	751 65066	211 66283
1250 65791			212 66283, 66285
17 CFR	32 CFR	42 CFR	223 66283
48 66201	1662 66568	412 64276, 64582	225 66286
232 65179		413 64048	226 66283
19 CFR	33 CFR	417 63825	252 66283, 66285
12 65539	100 62653, 63284, 65996	418 64202	501 63325
21 CFR	117 63815, 64367	422 63825	502 63325
866 66552, 66556	165 62654, 63286, 63288,	423 63825	512 62665
880 66558	63290, 63816, 64369, 64371,	460 63825	538 63325
1308 65991	64805, 65200, 65203, 65205,	488 64048	552 63325
Proposed Rules:	65540, 65997, 66223	43 CFR	570 63108
Ch. I 65294	Proposed Rules:	2 63828	Ch. 29 66616
1 66647	165 62689, 63331	8360 64383	Proposed Rules:
73 63330			204 66327
22 CFR	34 CFR	44 CFR	209 66338
120 66210	Ch. VI 62656, 66225	206 66241	212 66327
24 CFR	Proposed Rules:	45 CFR	217 66327
203 63082	Ch. III 64399	102 64815	252 66327, 66338
982 65769	38 CFR	1607 65550	339 65303
983 65769	21 66579, 66991	2520 66614	352 65303
Proposed Rules:	78 62659	2521 66614	
200 63847	Proposed Rules:	2522 66614	49 CFR
25 CFR	38 65572	Proposed Rules:	40 62665
Proposed Rules:	39 CFR	170 63498	576 66629
1000 66655	111 66580	171 63498	672 65999
26 CFR	966 66599	172 63498	1145 66011
1 66560, 66562, 66563	3006 65205	46 CFR	1540 66287
31 66563	Proposed Rules:	10 63830	Proposed Rules:
301 66562, 66563	111 63850	501 65786	190 67040
Proposed Rules:	3050 65301, 65302	502 64832	
1 64750	40 CFR	535 64832	50 CFR
301 64750	49 65212	Proposed Rules:	17 65225, 65552
28 CFR	52 63818, 64373, 65214,	401 63334	300 63841
35 65180	66232, 66234, 66599, 66603,	47 CFR	622 63843, 64397
29 CFR	66607, 66609, 66995, 67158	0 63296	635 62666, 63109
103 62952	60 62872	1 63296, 66254	648 65554, 65789
2550 65779	62 63099	2 63296	660 62667, 62668, 66011
Proposed Rules:	70 66609	5 65217	679 66633
1614 66656	81 62663	8 65224	Proposed Rules:
30 CFR	174 64807	25 65217, 66615	17 62707, 63888, 64852,
917 64787, 66214	180 63291, 63821, 64810,	26 63296	65124, 65816
	65542, 65545, 65548	52 64832	32 63139
	282 63101	73 65224	223 63393
	300 66612	79 66268	648 63394, 65576
	Proposed Rules:	97 65217	660 63153
	52 62691, 63030, 63117,	Proposed Rules:	665 63155
	63258, 63852, 63860, 65492,	1 66305	

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List August 1, 2024

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly

enacted public laws. To subscribe, go to https://portalguard.gsa.gov/__layouts/PG/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.