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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0231; Project Identifier AD–2023–01037–T; Amendment 39–22779; AD 2024–13–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. This AD was prompted by a report of heat damage on multiple engine inlets around the engine anti-ice (EAI) duct within the inlet aft compartment. This AD requires doing a records check and updating the operator's existing minimum equipment list (MEL), inspecting the left and right engine inlet cowl assembly for signs of heat damage around the EAI duct, installing or replacing the EAI duct seals, repairing any damage, and replacing the engine inlet if necessary. This AD also prohibits the installation of engine inlets under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 24, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 24, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0231; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2024–0231.

FOR FURTHER INFORMATION CONTACT: Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3553; email *takahisa.kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company (Boeing) Model 787–8, 787–9, and 787–10 airplanes. The NPRM published in the **Federal Register** on February 20, 2024 (89 FR 12785). The NPRM was prompted by a report of heat damage on multiple engine inlets around the EAI duct within the inlet aft compartment. A subsequent investigation found that the seals between the inner and outer ducts and between the outer duct and the aft compartment were degraded or missing, which led to EAI air leaking into the aft compartment, exposing inlet components to high temperatures.

In the NPRM, the FAA proposed to require doing a records check and updating the operator's existing MEL, inspecting the left and right engine inlet cowl assembly for signs of heat damage around the EAI duct, installing or replacing the EAI duct seals, repairing any damage, and replacing the engine inlet if necessary. The FAA is issuing this AD to address reduced structural strength and departure of the inlet from the airplane, resulting in subsequent loss of continued safe flight and landing or injury to occupants from a departed inlet contacting the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from nine commenters. The commenters were the Air Line Pilots Association, International (ALPA), American Airlines (AAL), Boeing, British Airways, Qantas, United Airlines (UAL), and three individual commenters.

ALPA and two individuals supported the NPRM without change.

One commenter expressed concern about the effect on safety of certain internal Boeing practices. This comment is outside the scope of the NPRM.

The following presents the remaining comments received on the NPRM and the FAA's response to each comment.

Request for Additional Definition of a Serviceable Engine Inlet

In the NPRM, the FAA proposed to require complying with Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, or B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, both of which specify replacing the engine inlet with a new or serviceable engine inlet under certain conditions. The requirements bulletins define a serviceable engine inlet as an engine inlet that has been inspected and had applicable corrective actions done in accordance with the requirements bulletins. AAL requested that the FAA consider, as an alternative serviceable engine inlet, one that has been inspected and had applicable corrective actions done in accordance with Collins Service Bulletin 787–G71–013, Revision 00, dated August 3, 2023, or later approved revisions.

The FAA does not agree. The instructions in Collins Aerospace Service Bulletin 787–G71–013 or 787–R71–034 are insufficient to ensure a damaged engine inlet is restored to a serviceable condition. Where indications of heat damage are discovered on metallic components, the Collins service bulletins specify performing conductivity and hardness tests. When the results of the conductivity or hardness test are outside acceptable limits, the Collins service bulletins specify submitting the test results to Collins with no further

procedures or instructions to accomplish a repair. The FAA has not changed this AD in this regard.

Request for Inspection Instructions in the AD

In the NPRM, the FAA proposed to require complying with Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, or B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, both of which specify inspecting the engine inlet cavity in accordance with those requirements bulletins and with Collins Service Bulletin 787–G71–013 or 787–R71–034, both dated August 3, 2023, or later-approved revisions. AAL requested that the FAA revise the AD by adding the inspection procedures from the Boeing and Collins bulletins instead of incorporating those procedures by reference. As support for its request, AAL stated the bulletins are not readily available and accessible to the line mechanics.

The FAA disagrees with AAL's request to revise the proposed AD to include the inspection instructions instead of incorporating the service information by reference. Including all inspection instructions in the AD is inefficient and defeats the purpose of incorporation by reference. The referenced Boeing and Collins service bulletins are readily available to operators through their normal courses of business or from the manufacturers. The FAA has not changed this AD in this regard.

Request for Later-Approved Revisions of Structural Repair Manual

In the NPRM, the FAA proposed to require complying with Boeing Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, or B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, both of which reference specific sections, by revision number, of the Boeing structural repair manual (SRM) for certain information. Boeing and UAL requested that the FAA revise the proposed AD to allow the use of later-approved revisions of the SRM. Boeing stated that operators do not recall historical SRM revisions, and therefore they can incorporate only the latest revision of the SRM at the time of accomplishment.

The FAA disagrees with the request. The SRM sections cited in the requirements bulletins define heat damage in a way that the FAA finds will address the unsafe condition in this AD. If future revisions of those SRM sections also define heat damage in a way that adequately addresses the unsafe condition in this AD, the commenters can request approval of those sections as an alternative method of compliance (AMOC). The FAA has not changed this AD as a result of this comment.

Request for Change to Background and Unsafe Condition

Boeing requested that the FAA revise the Background section of the NPRM and paragraph (e) of the proposed AD to clarify that partially degraded seals were found in addition to missing seals.

The FAA agrees and has revised the preamble and the unsafe condition statement in paragraph (e) of this AD accordingly.

Request for Clarification of Description of Proposed Requirements

The preamble of the NPRM explained that the FAA proposed to require doing a records check and updating the operator's MEL, among other actions. Boeing requested that the FAA revise the preamble to clarify that the update is actually within the Dispatch Deviations Guide (DDG) and not with any actual equipment on the list. Boeing stated that this change would avoid confusion regarding the actual MEL changes.

The FAA disagrees with the request. This AD requires revising the operator's MEL by incorporating the DDG update. Although the commenter is correct that the MEL revision is not intended to change any equipment listed on the MEL, since the DDG is part of the MEL, the statement in the NPRM is accurate. The FAA has not changed this AD in this regard.

Request for Corrected Paragraph Reference

Boeing, AAL, and UAL requested that the FAA revise paragraph (h)(3) of the proposed AD, which incorrectly referred to paragraph (k) for approval of AMOCs. The correct reference is paragraph (j).

The FAA agrees and has revised paragraph (h) of this AD accordingly.

Request To Extend Compliance Time for Inspection

In the NPRM, the FAA proposed to require complying with Boeing Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, or B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023. Table 10 of the requirements bulletins specifies doing an inspection of the engine inlet cavity at or prior to the expiration of the time interval under MEL 30–21–01–02 or MEL 30–21–01–07 (the interval for repair category C, which is 10 consecutive calendar days (240 hours) with a single extension, if authorized, as defined in the DDG).

British Airways requested that the FAA revise the compliance time to allow an additional 125 days after the expiration of the MEL interval period to do the inspections and any corrective actions. British Airways acknowledged the safety concerns surrounding inlets that have been exposed to high temperatures during the time period allowed under MEL 30–21–01–02 or MEL 30–21–01–07 but stated the compliance time in the NPRM would cause considerable maintenance concerns for operators as it does not give sufficient time to plan for and carry out the required actions in a controlled environment.

The FAA disagrees with the request for a longer compliance time. The FAA anticipates the potential structural damage incurred by the airplane due to dispatch under the MEL to increase as the engine inlet accumulates more operational time under those specific MEL conditions. Since accumulated structural damage on each engine inlet is unknown, the FAA determined that the inspection of the engine inlet at the completion of the dispatch interval period was necessary. Operators who can justify that, after completion of the MEL dispatch interval period, an engine inlet can maintain its structural integrity over a longer time period may propose that time period as an alternative method of compliance under the process specified in paragraph (j) of this AD.

Request To Change Location of MEL Inspection Procedure

In the NPRM, the FAA proposed to require complying with Boeing Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, or B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, both of which specify revising the operator's MEL by incorporating the DDG 30–21–01–02 update. The MEL, with the DDG update incorporated, allows dispatch with inoperative equipment specified under items 30–21–01–02 and 30–21–01–07 provided the engine inlet cavity is inspected and applicable corrective actions are taken in accordance with the requirements bulletins and with Collins Service Bulletin 787–G71–013 or 787–R71–034, both dated August 3, 2023, or later approved revisions.

Qantas and UAL requested that the FAA change the location of the required inspection instructions for dispatch under the MEL from the bulletins to the airplane maintenance manual (AMM).

Alternatively, UAL requested that the inspection instructions be included in the DDG update itself instead of having the DDG refer to the service bulletins. Qantas, UAL, and British Airways all stated that operators' maintenance systems are not set up to provide maintenance personnel with access to service bulletins. Qantas expressed a concern that maintenance personnel could inadvertently fail to carry out the required inspection as part of the MEL process.

The FAA disagrees. The concern about accessibility of the requirements bulletins to maintenance personnel is not unique to this AD. The FAA commonly issues ADs that mandate service documents containing instructions that must be carried out to resolve an unsafe condition. Operators and repair stations are required to provide those mandatory service documents to their maintenance personnel. In addition, for this AD, the requirement through the MEL is necessary because compliance may be based on the need for dispatch with inoperative equipment. The FAA has not changed this AD as a result of these comments.

Request for Instructions for Engine Inlets With Unknown History

Qantas requested that the FAA clarify how to comply with the AD for engine inlets that are not installed on an airplane and for which the last installation is unknown. Qantas stated that since engine inlets can be moved from airplane to airplane, operators may not know whether an engine inlet was installed on airplane and dispatched under the MEL.

The requirements bulletins specify that, if an operator cannot determine whether the airplane was dispatched under MEL 30–21–01–02 or MEL 30–21–01–07, the engine inlet must be inspected or replaced. No change to this AD is necessary as a result of this comment.

Request for Information To Determine Heat Damage of Primer

UAL stated that the SRM sections referenced in the requirements bulletins do not provide pass/fail criteria for the amount of discoloration when assessing for heat damage. UAL requested clarification of whether any browning of primer would be an indication of a missing seal.

The commenter is correct that the SRM sections referenced in the requirements bulletins do not provide pass/fail criteria. However, the SRM sections do provide appropriate information to determine heat damage. Under the criteria in the SRM, the FAA expects that any discoloration of primer would be treated as evidence of heat damage. The FAA has not changed this AD as a result of this comment.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023; and Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023. This material specifies procedures for incorporating (or verifying incorporation of) an updated DDG for item 30–21–01–02 into the operator's existing MEL, checking records to determine whether the inlet has been dispatched under MEL item 30–21–01–02 or 30–21–01–07 before incorporation of the DDG 30–21–01–02 update, and applicable related investigative and corrective actions, including general visual inspection for signs of heat damage around the EAI duct, conductivity measurement and hardness test of areas with heat damage, replacement/installation of the periseal and aft seal, and repair or replacement of the engine inlet. These documents are distinct since they apply to different airplane 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**.

Interim Action

The FAA considers that this AD would be an interim action. An investigation is ongoing. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD affects 110 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
MEL update and records check	5 work-hours × $85 per hour = $425	$0	$425	$46,750

The FAA estimates the following costs to do any investigative actions or repairs/replacements that would be required based on the results of the records check. The agency has no way of determining the number of airplanes that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection	3 work-hours × $85 per hour = $255	$0	$255

The FAA has received no definitive data on which to base the cost estimates for the conductivity measurement, the hardness test, inlet replacement, and installation of a new periseal and aft seal, as specified in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–13–05 The Boeing Company: Amendment 39–22779; Docket No. FAA–2024–0231; Project Identifier AD–2023–01037–T.

(a) Effective Date

This airworthiness directive (AD) is effective September 24, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Unsafe Condition

This AD was prompted by a report of heat damage on multiple engine inlets around the engine anti-ice (EAI) duct within the inlet aft compartment due to missing or degraded seals between the inner and outer ducts and between the outer duct and the aft compartment. The FAA is issuing this AD to address EAI air leaking into aft compartment exposing inlet components to high temperatures, which could result in damage around the EAI duct. This condition, if not addressed, could lead to reduced structural strength and departure of the inlet from the airplane, resulting in subsequent loss of continued safe flight and landing or injury to occupants from a departed inlet contacting the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB or B787–81205–SB540024–00 RB, both Issue 001 and both dated September 22, 2023, as applicable, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB or B787–81205–SB540024–00 RB, both Issue 001 and both dated September 22, 2023, as applicable.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB540023–00, dated September 22, 2023, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023.

Note 2 to paragraph (g): Guidance for accomplishing the actions required by this AD can also be found in Boeing Alert Service Bulletin B787–81205–SB540024–00, dated September 22, 2023, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023.

(h) Exceptions to Service Information Specifications

(1) Where the ''Boeing Recommended Compliance Time'' column in the tables under the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, use the phrase ''the Issue 001 date of Requirements Bulletin B787–81205–SB540023 RB,'' this AD requires using the effective date of this AD.

(2) Where the ''Boeing Recommended Compliance Time'' columns in the tables under the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, use the phrase ''the Issue 001 date of Requirements Bulletin B787–81205–SB540024 RB,'' this AD requires using the effective date of this AD.

(3) Where Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, and Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, specify contacting Boeing for repair instructions, this AD requires doing the repair before further flight, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Parts Installation Prohibition

After accomplishment of all applicable actions required by paragraph (g) of this AD on an airplane, no person may install on that airplane any engine inlet that meets a condition specified in paragraph (i)(1) or (2) of this AD, unless the engine inlet has been inspected and applicable corrective actions taken as specified in Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023; or Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023.

(1) If the engine inlet was installed on an airplane that was dispatched under a dispatch deviation for the operator's existing minimum equipment list (MEL) item 30–21–01–02 or 30–21–01–07 prior to incorporation of Boeing 787 Dispatch Deviation Guide (DDG) 30–21–01–02, as required by this AD.

(2) If the engine inlet was installed on an airplane for which dispatch under a dispatch deviation for the operator's existing MEL item 30–21–01–02 or 30–21–01–07 prior to incorporation of Boeing 787 DDG 30–21–01–02, as required by this AD, cannot be determined.

(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 responsible Flight Standards Office, as

appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *AMOC@faa.gov.*

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

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

(k) Related Information

For more information about this AD, contact Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3553; email *takahisa.kobayashi@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023.

(ii) Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023.

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

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

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

Issued on July 29, 2024.

Peter A. White,

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

[FR Doc. 2024–18625 Filed 8–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0999; Project Identifier MCAI–2023–01262–T; Amendment 39–22780; AD 2024–13–06]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 7X airplanes. This AD was prompted by a determination that certain left-hand (LH) and right-hand (RH) pylon bleed air leak detectors (BALDs) might be defective, due to incorrect manufacturing processes and incomplete acceptance test procedures. This AD requires a one-time operational check of affected parts and, depending on findings, accomplishment of applicable corrective action, and limits the installation of affected parts under certain conditions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 24, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 24, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0999; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2024–0999.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3226; email: *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Dassault Aviation Model FALCON 7X airplanes. The NPRM published in the **Federal Register** on April 10, 2024 (89 FR 25189). The NPRM was prompted by AD 2023–0216, dated December 18, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0216) (also referred to as the MCAI). The MCAI states that certain pylon BALDs might be defective, due to incorrect manufacturing processes and incomplete acceptance test procedures. The presence of defective LH and RH pylon BALDs could lead to undetected pylon overheat, possibly resulting in structural degradation or uncontrolled fire.

In the NPRM, the FAA proposed to require a one-time operational check of affected parts and, depending on findings, accomplishment of applicable corrective action, and to limit the installation of affected parts under certain conditions, as specified in EASA AD 2023–0216. The FAA is issuing this AD to address the possible presence of defective LH and RH pylon BALDs. The unsafe condition, if not addressed, could result in undetected pylon overheat, possibly resulting in structural degradation or uncontrolled fire.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–0999.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's

bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Material Under 1 CFR Part 51

EASA AD 2023–0216 specifies procedures for a one-time operational check of affected parts, including an inspection of the routing of the rear and front BALD loops for interference with the aircraft structure between two grommets, an inspection of the BALD loops for overheating and burn marks, an inspection of the area surrounding each test point for possible interference between the hot air gun and the temperature-sensitive piping and harnesses, a test of the BALD loops with a wide blower nozzle for a certain crew alerting system (CAS) message, and a test of the BALD loops with a narrow blower nozzle for a certain CAS message; and, depending on findings, accomplishment of applicable corrective action including replacing defective BALD loops. EASA AD 2023–0216 also provides conditions for installation of affected RH and LH pylon BALDs.

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

Costs of Compliance

The FAA estimates that this AD affects 150 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
10 work-hours × $85 per hour = $850	$602	$1,452	$217,800

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
10 work-hours × $85 per hour = $850	$1,661	$2,511

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–13–06 Dassault Aviation: Amendment 39–22780; Docket No. FAA–2024–0999; Project Identifier MCAI–2023–01262–T.

(a) Effective Date

This airworthiness directive (AD) is effective September 24, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 7X airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by a determination that certain left-hand (LH) and right-hand (RH) pylon bleed air leak detectors (BALDs) might be defective, due to incorrect manufacturing processes and incomplete acceptance test procedures. The FAA is issuing this AD to address the possible presence of defective LH and RH pylon BALDs. The unsafe condition, if not addressed, could result in undetected pylon overheat, possibly resulting in structural degradation or uncontrolled fire.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0216, dated December 18, 2023 (EASA AD 2023–0216).

(h) Exceptions to EASA AD 2023–0216

(1) Where EASA AD 2023–0216 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the group definitions in EASA AD 2023–0216 specify ''the SB,'' this AD requires replacing that text with ''Dassault Service Bulletin 7X–572, Erratum, dated October 24, 2023.''

(3) Where the service information referenced in EASA AD 2023–0216 refers to ''suspicious traces,'' this AD requires replacing that text with ''burn marks or signs of overheating.''

(4) Where EASA AD 2023–0216 refers to ''any discrepancy,'' this AD requires replacing that text with ''any routing interference, burn marks, signs of overheating, or any specified crew alerting system (CAS) message that does not show on a Primary Display Unit (PDU) during testing.''

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0216.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

For more information about this AD, contact Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3226; email: *tom.rodriguez@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0216, dated December 18, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0216, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on July 1, 2024.

Caitlin Locke,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2024–18626 Filed 8–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2010; Project Identifier AD–2024–00366–R; Amendment 39–22807; AD 2024–16–01]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Inc. (Type Certificate Previously Held by Bell Helicopter Textron, Inc.), Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2000–18–09, which applied to certain Bell Helicopter Textron, Inc. (now Bell Textron Inc.), Model 412, 412CF, and 412EP helicopters. AD 2000–18–09 required repetitively inspecting the upper left-hand cap angle (cap angle) and adjacent structure for a crack and, depending on the results, replacing any cracked cap angle and repairing any crack in the adjacent structure. This AD was prompted by a report of a fatigue crack in a tail boom attachment cap angle. This AD retains the requirements of AD 2000–18–09, expands the applicability by adding models and an additional part-numbered cap angle, reduces the inspection intervals, and requires using updated procedures. This AD also updates the reporting requirement. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 4, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 4, 2024.

The FAA must receive comments on this AD by October 4, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2010; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Bell material identified in this AD, contact Bell Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; phone: (450) 437–2862 or (800) 363–8023; fax: (450) 433–0272; email: *productsupport@bellflight.com;* website: *bellflight.com/support/contact-support.*
- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Hung Nguyen, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (562) 627–5362; email: *hung.v.nguyen@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2024–2010; Project Identifier AD–2024–00366–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Hung Nguyen, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (562) 627–5362; email: *hung.v.nguyen@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2000–18–09, Amendment 39–11894 (65 FR 55175, September 13, 2000) (AD 2000–18–09), for Bell Helicopter Textron, Inc. (now Bell Textron Inc.), Model 412, 412CF, and 412EF helicopters with cap angle part number (P/N) 212–030–191–001, installed. AD 2000–18–09 was prompted by a report of a fatigue crack in a tail boom attachment cap angle. AD 2000–18–09 required repetitively inspecting certain part-numbered cap angles for a crack and, depending on the results, replacing a cracked cap angle with an airworthy cap angle and repairing any cracked adjacent structure. AD 2000–18–09 also required reporting any crack to the FAA. The FAA issued AD 2000–18–09 to prevent failure of a cap angle, loss of the tail boom, and subsequent loss control of the helicopter.

Actions Since Issuance of AD 2000–18–09

Since the FAA issued AD 2000–18–09, Bell Textron Inc., has received additional reports of occurrences of fractured cap angles, which were found during routine inspections and during the repetitive 100 hours time-in-service (TIS) inspection required by AD 2000–18–09. Further investigation revealed the 100 hours TIS interval is not adequate to detect cracks before fracture of a cap angle could occur. Accordingly, Bell Textron Inc., issued updated material to reduce the inspection interval to 25 flight hours for certain helicopters and 50 flight hours for certain other helicopters to detect cracks and prevent failures of the cap angle. The updated material also specifies inspecting for and removing any sealant before inspecting the cap angle area. Additionally, due to the similarity to Model 412, 412CF, and 412EP helicopters, the FAA determined that Bell Textron Inc., Model 212, 205A, 205A–1, and 205B helicopters are also affected by the same unsafe condition.

Furthermore, since AD 2000–18–09 was issued, the FAA has revised its writing practices to comply with updated formats and policy. As a result, paragraph identifiers have changed and the reporting requirement that was required by AD 2000–18–09 has been revised in this AD. This AD also incorporates updated procedures by reference and removes the information in Note 1 of AD 2000–18–09 as that information is understood.

Lastly, since the FAA issued AD 2000–18–09, Bell Helicopter Textron, Inc., changed its name to Bell Textron Inc.; this AD reflects that change.

FAA's Determination

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Bell Alert Service Bulletin (ASB) 205–24–122 for Model 205A and 205A–1 helicopters, Bell ASB 205B–24–77 for Model 205B helicopters, Bell ASB 212–24–169 for Model 212 helicopters, Bell ASB 412–24–197 for Model 412 and 412EP helicopters, and Bell ASB 412CF–24–77 for Model 412CF helicopters, all dated April 22, 2024. This material specifies procedures for inspecting for and removing any sealant, inspecting the cap angle area with a 10X magnifying glass and bright light for a crack and if a crack is found, this material specifies replacing the cap angle or contacting Bell for further instructions. This material also specifies touching up any primer that may have been damaged during the sealant removal.

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

AD Requirements

This AD requires visually inspecting for sealant around the edge of the fitting and depending on the results, removing any sealant. This AD also requires, using a 10X or higher power magnifying glass and flashlight, inspecting the cap angle and adjacent structure for a crack. Depending on these results, this AD requires removing an affected cap angle from service and installing an airworthy cap angle, repairing an affected adjacent structure, and reporting certain information to the FAA.

Differences Between This AD and the Referenced Material

If there is a crack in the cap angle and the helicopter is at a location where the cap angle cannot be replaced, the referenced material specifies contacting

the manufacturer, whereas this AD does not include that action.

If there is a crack in the adjacent structure to the cap angle, this AD requires repairing the adjacent structure in accordance with a method approved by the FAA, whereas the referenced material does not address this condition.

If there is a crack, this AD requires reporting certain information, whereas the referenced material does not.

Interim Action

The FAA considers this AD to be an interim action. The manufacturer is currently investigating the root cause of the unsafe condition identified in this AD. If final action is later identified, the FAA might consider further rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because the affected components are part of an assembly that is critical to the control of a helicopter. In addition, cracking could lead to instantaneous failure before detection. As the FAA has no information pertaining to the extent of cracking of the affected components that may currently exist in helicopters or how quickly the condition may propagate to failure, for certain helicopters the initial instance of the actions required by this AD must be accomplished within 25 hours TIS, and thereafter within intervals not to exceed 25 hours TIS. Based on the average flight-hour utilization rate of these helicopters, the compliance time for the initial instance of the required actions is a period of up to 1 month. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 157 helicopters of U.S. registry. Labor costs are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Visually inspecting for the presence of sealant takes a minimal amount of time for a nominal cost. If required, removing sealant will take approximately 0.5 work-hour for an estimated cost of $43 per helicopter.

Inspecting the cap angle and adjacent structure will take approximately 0.5 work-hour for an estimated cost of $43 per helicopter and $6,751 for the U.S. fleet, per inspection cycle.

If required, replacing an affected cap angle will take approximately 400 work-hours and parts will cost up to approximately $1,171 for an estimated cost of $35,171 per replacement.

If required, repairing an adjacent structure will take approximately 16 work-hours for an estimated cost of $1,360 per helicopter. The FAA has no data to determine the parts costs to accomplish this repair.

If required, reporting inspection results will take approximately 1 work-hour for an estimated cost of $85 per report.

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive 2000–18–09, Amendment 39–11894 (65 FR 55175, September 13, 2000); and
■ b. Adding the following new airworthiness directive:

2024–16–01 Bell Textron Inc. (Type Certificate previously held by Bell Helicopter Textron, Inc.): Amendment 39–22807; Docket No. FAA–2024–2010; Project Identifier AD–2024–00366–R.

(a) Effective Date

This airworthiness directive (AD) is effective September 4, 2024.

(b) Affected ADs

This AD replaces AD 2000–18–09, Amendment 39–11894 (65 FR 55175, September 13, 2000).

(c) Applicability

This AD applies to Bell Textron Inc. (type certificate previously held by Bell Helicopter Textron, Inc.), Model 205A, 205A–1, 205B, 212, 412, 412CF, and 412EP helicopters, certificated in any category, identified in paragraphs (c)(1) and (2) of this AD.

(1) Model 205A, 205A–1, and 205B helicopters, with an upper left-hand cap angle (cap angle) part number (P/N) 205–030–207–005 installed.

(2) Model 212, 412, 412CF, and 412EP helicopters, with a cap angle P/N 212–030–191–001 installed.

(d) Subject

Joint Aircraft System Component (JASC) Code: 5300, Fuselage structure.

(e) Unsafe Condition

This AD was prompted by reports of a fatigue crack in a tail boom attachment cap angle. The FAA is issuing this AD to prevent failure of a cap angle. The unsafe condition, if not addressed, could result in failure of the fuselage and bulkhead, and subsequent separation of the tail boom and loss control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) For Model 205A, 205A–1, 205B, 212, 412CF, and 412 helicopters identified in paragraph (c) of this AD; and for Model 412EP helicopters identified in paragraph (c)(2) of this AD with serial numbers 36087 through 36693 inclusive, within 25 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 25 hours TIS; and for Model 412EP helicopters identified in paragraph (c)(2) of this AD with serial numbers 36694 through 36999 inclusive and 37002 through 37999 inclusive, within 50 hour TIS after the effective date of this AD, and thereafter at intervals not to exceed 50 hours TIS, accomplish the actions required by paragraphs (g)(1)(i) and (ii) of this AD.

(i) Visually inspect for the presence of sealant around the forward edge of the left-hand tail boom cap angle fitting in the ''Inspection Area'' depicted in Figure 1., of Bell Alert Service Bulletin (ASB) 205–24–122, Bell ASB 205B–24–77, Bell ASB 212–24–169, Bell ASB 412–24–197, or Bell ASB 412CF–24–77, all dated April 22, 2024, as applicable to your model helicopter. If there is any sealant, before further flight, remove any sealant by following the Accomplishment Instructions, paragraph 2., of Bell ASB 205–24–122, Bell ASB 205B–24–77, Bell ASB 212–24–169, Bell ASB 412–24–197, or Bell ASB 412CF–24–77, all dated April 22, 2024, as applicable to your model helicopter.

(ii) Using a 10X or higher power magnifying glass and flashlight, visually inspect the cap angle and adjacent structure for a crack in the ''Inspection Area'' depicted in Figure 1., of Bell ASB 205–24–122, Bell ASB 205B–24–77, Bell ASB 212–24–169, Bell ASB 412–24–197, or Bell ASB 412CF–24–77, all dated April 22, 2024, as applicable to your model helicopter.

(A) If there is any crack in the cap angle, before further flight, remove the cap angle from service and install an airworthy cap angle.

(B) If there is any crack in the adjacent structure, before further flight, repair the structure in accordance with a method approved by the Manager, Central Certification Branch, FAA. For a repair method to be approved by the Manager, Central Certification Branch, FAA; as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(2) If there is a crack as a result of any instance of an inspection required by paragraph (g)(1)(ii) of this AD, within 10 days after completing the inspection, report the information in Appendix 1 to this AD by email to *OperationalSafety@faa.gov.*

(h) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the actions required by this AD can be performed, provided after takeoff, the flight is straight and level until landing, and avoids areas of known turbulence and provided no passengers are onboard.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Hung Nguyen, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (562) 627–5362; email: *hung.v.nguyen@faa.gov*.

(k) 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) Bell Alert Service Bulletin (ASB) 205–24–122, dated April 22, 2024.

(ii) Bell ASB 205B–24–77, dated April 22, 2024.

(iii) Bell ASB 212–24–169, dated April 22, 2024.

(iv) Bell ASB 412–24–197, dated April 22, 2024.

(v) Bell ASB 412CF–24–77, dated April 22, 2024.

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

(4) You may view this material at the FAA, Office of Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Appendix 1 to AD 2024–16–01

Report the following information for each crack by email to: *OperationalSafety@faa.gov.*

In the subject line of the email, include the text ''AD 2024–16–01''.

(1) Date of inspection that revealed a crack in the cap angle or in the adjacent structure.

(2) Helicopter Model:

(3) Date of previous inspection of the cap angle and adjacent structure:

(4) Helicopter serial number:

(5) Total hours time-in-service accumulated since new on the airframe:

(6) Helicopter N-number:

(7) Cap angle(s) part number:

(8) Describe in detail any information and findings, including any previous maintenance or modification of the cracked area, any cracks in the surrounding areas such as the fitting or web, and, if possible, provide photos.

Issued on August 1, 2024.

Victor Wicklund,

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

[FR Doc. 2024–18580 Filed 8–15–24; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2013; Project Identifier AD–2024–00363–A; Amendment 39–22812; AD 2024–16–06]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–15–07, which applied to all Air Tractor, Inc. (Air Tractor) Model AT–802 and AT–802A airplanes with Wipaire, Inc. Supplemental Type Certificate (STC) No. SA01795CH installed. AD 2023–15–07 required repetitively inspecting the left and right forward horizontal stabilizer spars for cracks, replacing any forward horizontal stabilizer spar found cracked, and reporting inspection results to the FAA. This AD requires repetitively inspecting the left and right, forward and rear, horizontal stabilizer spars for cracks at shorter intervals than those required by AD 2023–15–07, replacing any horizontal stabilizer spar found cracked or damaged, installing bathtub fittings, and reporting inspection results to the FAA. This AD was prompted by additional reports of cracks in the horizontal stabilizer spars and the need to incorporate a new finlet attach design on the horizontal stabilizer spars to reduce the cracking. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 4, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 4, 2024.

The FAA must receive comments on this AD by October 4, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2013; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Wipaire, Inc. material identified in this AD, contact Wipaire, Inc., 1700 Henry Avenue, Fleming Field (KSGS), South St. Paul, MN 55075; phone: (651) 451–1205; email: *customerservice@wipaire.com;* website: *wipaire.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2024–2013.

FOR FURTHER INFORMATION CONTACT: Tim Eichor, Aviation Safety Engineer, Central Certification Branch, FAA, 1801 S. Airport Road, Wichita, KS 67209; phone: (847) 294–7141; email: *tim.d.eichor@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2024–2013; Project Identifier AD–2024–00363–A'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Tim Eichor, Aviation Safety Engineer, Central Certification Branch, FAA, 1801 S. Airport Road, Wichita, KS 67209. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2023–15–07, Amendment 39–22519 (88 FR 53761, August 9, 2023) (AD 2023–15–07), for all Air Tractor Model AT–802 and AT–802A airplanes with Wipaire, Inc. STC No. SA01795CH installed. AD 2023–15–07 required repetitively inspecting the left and right forward horizontal stabilizer spars for cracks, replacing any forward horizontal stabilizer spar found cracked, and reporting inspection results to the FAA. For certain airplanes, AD 2023–15–07 required the inspection before the airplane accumulated 200 hours time-in-service (TIS) after installation of STC No. SA01795CH. AD 2023–15–07 resulted from cracks found in the forward horizontal stabilizer spar bend radius located at the STC finlet mounting locations. The FAA issued AD 2023–15–07 to detect and correct cracks in the forward horizontal stabilizer spar, which could result in structural failure of the horizontal tail with consequent loss of control of the airplane.

Actions Since AD 2023–15–07 Was Issued

As a result of the reports of the inspections required by AD 2023–15–07, additional cracks have been found in the forward horizontal stabilizer spar, including cracks found before the airplane accumulated 200 hours TIS after installation of the STC.

Accordingly, the FAA determined that reducing the inspection interval is necessary. In addition, based on a new fatigue analysis, the FAA determined that there is the potential for cracks in the rear horizontal stabilizer spar. Wipaire, Inc. has developed a change to STC No. SA01795CH, which incorporates an improved design that includes modification kits to install bathtub fittings on the horizontal stabilizer spars to mitigate this condition by improving the structural load path. This includes more accessible repetitive inspection intervals of 110 hours TIS. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Wipaire, Inc. Service Letter 253, Revision D, dated July 3, 2024 (Wipaire SL 253D), which specifies procedures for repetitively inspecting the left and right, forward and rear, horizontal stabilizer spars for cracks and installing bathtub fittings using Service Kit 1012347–01 or 1012347–02. This material also specifies procedures for repetitively inspecting the left and right, forward and rear, horizontal stabilizer spars for cracks, elongated holes, and corrosion after installation of the bathtub fittings. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

AD Requirements

This AD retains none of the requirements of AD 2023–15–07. This AD requires repetitively inspecting both the left and right, forward and rear, horizontal stabilizer spars for cracks, replacing any horizontal stabilizer spar found cracked or damaged, installing bathtub fittings (Service Kit 1012347–01 or 1012347–02), and reporting inspection results to the FAA. The inspection intervals in this AD are shorter than the intervals required by AD 2023–15–07.

Differences Between This AD and the Referenced Material

As part of the instructions for installing the bathtub fittings, Wipaire SL 253D specifies that to be eligible for reinstallation, finlet mount weldments must include a certain welded gusset, but that constraint is not required by this AD.

Wipaire SL 253D includes an inspection of the finlets and forward bathtub fittings at intervals of 1,500 hours TIS and establishes a life limit of 7,800 hours TIS on the forward spar and forward bathtub fittings. This AD does not include those requirements because the compliance times would allow sufficient time to provide notice and opportunity for public comment. The FAA is evaluating these actions and may consider future rulemaking.

This AD requires an initial compliance time of within 7 days or before the airplane accumulates 110 hours TIS since installation of STC No. SA01795CH, whichever occurs later, while Wipaire SL 253D specifies different compliance times for different configurations of STC No. SA01795CH.

Wipaire SL 253D specifies repeating the inspections at intervals of 200 hours TIS, but this AD requires the repetitive inspections at intervals not to exceed 110 hours TIS.

Interim Action

The FAA considers this AD to be an interim action. The FAA is evaluating the need to establish a life limit (potentially as low as 2,000 hours TIS) on the horizontal stabilizer spars to further mitigate the unsafe condition long term. The FAA may consider future rulemaking on this subject.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because cracks in the horizontal stabilizer spars could lead to structural failure of the horizontal tail with consequent loss of control of the airplane. Airplanes with the affected STC installed are used in fire-fighting missions and put frequent high repetitive fatigue loads in this area at a high utilization rate (about 100 hours TIS monthly). Based on the number of cracks found to date, a significant number of airplanes need to be inspected within 7 days after the effective date of this AD and modified with bathtub fittings within 300 hours TIS (about 3 months for the high utilization airplanes). These compliance times are shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 30 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per airplane	Cost on U.S. operators
Inspect horizontal stabilizer spars (without bathtub fittings).	20 work-hours × $85 per hour = $1,700.	$0	$1,700 per inspection cycle ...	$51,000 per inspection cycle.
Install bathtub fittings	40 work-hours × $85 per hour = $3,400.	3,100	$6,500	$195,000.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per airplane	Cost on U.S. operators
Inspect horizontal stabilizer spars (with bathtub fittings).	3 work-hours × $85 per hour = $255.	0	$255 per inspection cycle	$7,650 per inspection cycle.
Report inspection results	1 work-hour × $85 per hour = $85.	0	$85 per inspection cycle	$2,550 per inspection cycle.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per airplane
Replace horizontal stabilizer spar	40 work-hours × $85 per hour = $3,400	$2,800	$6,200

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

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive 2023–15–07, Amendment 39–22519 (88 FR 53761, August 9, 2023); and
■ b. Adding the following new airworthiness directive:

2024–16–06 Air Tractor, Inc.: Amendment 39–22812; Docket No. FAA–2024–2013; Project Identifier AD–2024–00363–A.

(a) Effective Date

This airworthiness directive (AD) is effective September 4, 2024.

(b) Affected ADs

This AD replaces AD 2023–15–07, Amendment 39–22519 (88 FR 53761, August 9, 2023) (AD 2023–15–07).

(c) Applicability

This AD applies to Air Tractor, Inc. Model AT–802 and AT–802A airplanes, all serial numbers, certificated in any category, that have Wipaire, Inc. Supplemental Type Certificate (STC) No. SA01795CH installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 5510, Horizontal Stabilizer Structure; 5511 Horizontal stabilizer, Spar/Rib; 5514, Horizontal Stabilizer Miscellaneous Structure; 5530, Vertical Stabilizer Structure.

(e) Unsafe Condition

This AD was prompted by additional reports of cracks found in the horizontal stabilizer spars and the need to incorporate a new finlet attach design on the horizontal stabilizer spars to reduce the cracking. The FAA is issuing this AD to prevent structural failure of the horizontal stabilizer spars. The unsafe condition, if not addressed, could result in structural failure of the horizontal

tail with consequent loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 7 days after the effective date of this AD or before the airplane accumulates 110 hours time-in-service (TIS) after installation of STC No. SA01795CH, whichever occurs later, and thereafter at intervals not to exceed 110 hours TIS until the airplane is modified as required by paragraph (g)(3) of this AD: Inspect the left and right horizontal stabilizer spars for cracks in accordance with Steps 1 through 9 of the Work Instructions—Inspection, Method 1 in Wipaire, Inc. Service Letter 253, Revision D, dated July 3, 2024 (Wipaire SL 253D).

(2) If any crack is found in a horizontal stabilizer spar during any inspection required by paragraph (g)(1) of this AD, or if any crack, elongated hole, or corrosion is found in a horizontal stabilizer spar during any inspection required by paragraph (g)(4) of this AD, before further flight, replace the horizontal stabilizer spar.

(3) Within 300 hours TIS or 12 months after the effective date of this AD, whichever occurs first, install bathtub fittings (Service Kit 1012347–01 or 1012347–02) in accordance with Steps 1 through 10 of the Work Instructions—Install Bathtub Fittings in Wipaire SL 253D except where Step 2 specifies that to be eligible for reinstallation, finlet mount weldments must include the welded gussets shown in figure 8 of Wipaire SL 253D, that constraint is not required by this AD. If any spars were previously modified by installing 7D1–4399 Revision L or earlier, regardless of condition, those spars must be replaced at the same time the bathtub fittings kit is installed.

(4) Within 110 hours TIS after installing the bathtub fittings, and thereafter at intervals not to exceed 110 hours TIS, inspect the horizontal stabilizer spars for cracks, elongated holes, and corrosion in accordance with Steps 1, 2, 4 through 6, 9, and 10 of the Work Instructions—Inspection, Method 2 in Wipaire SL 253D.

(5) Within 5 days after each inspection required by paragraphs (g)(1) and (4) of this AD or within 5 days after the effective date of this AD, whichever occur later, report the following to the FAA at the address in paragraph (j)(1) of this AD. Report this information regardless of whether cracks are found.

(i) Model, engine configuration (with horsepower limits), and propeller type;

(ii) Serial number and N number;

(iii) Total hours TIS on airframe;

(iv) Total hours TIS operated with floats, if known;

(v) STC configuration and total hours with STC installed;

(vi) Crack location (right or left, upper/lower caps inboard/outboard hole);

(vii) Crack size;

(viii) Photos of cracks found, if available; and

(ix) Any additional operator/mechanic comments.

(h) Credit for Previous Actions

You may take credit for the initial inspection required by paragraph (g)(1) of this AD if, before the effective date of this AD, you complied with Wipaire, Inc. Service Letter 253, Revision A, dated April 5, 2023; or Wipaire Service Letter 253, Revision B, dated July 27, 2023.

(i) Alternative Methods of Compliance (AMOCs)

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

(j) Related Information

(1) For more information about this AD, contact Tim Eichor, Aviation Safety Engineer, Central Certification Branch, FAA, 1801 S. Airport Road, Wichita, KS 67209; phone: (847) 294–7141; email: *tim.d.eichor@faa.gov.*

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

(k) Material Incorporated by Reference

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

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

(i) Wipaire, Inc. Service Letter 253, Revision D, dated July 3, 2024.

(ii) [Reserved]

(3) For Wipaire, Inc. material identified in this AD, contact Wipaire, Inc., 1700 Henry Avenue, Fleming Field (KSGS), South St. Paul, MN 55075; phone: (651) 451–1205; email: *customerservice@wipaire.com;* website: *wipaire.com.*

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

(5) You may view this 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 14, 2024.

Victor Wicklund,

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

[FR Doc. 2024–18586 Filed 8–15–24; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 123, 124, and 126

[Public Notice: 12468]

RIN 1400–AF84

International Traffic in Arms Regulations: Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States

AGENCY: Department of State.

ACTION: Interim final rule; request for comments.

SUMMARY: The Department of State (the Department) is amending the International Traffic in Arms Regulations (ITAR) to facilitate defense trade and cooperation among Australia, the United Kingdom, and the United States through a new exemption, pursuant to section 38(l) of the Arms Export Control Act; adding an expedited licensing process for certain defense article and defense service exports to Australia, the United Kingdom, and Canada; adding a list of defense articles and defense services excluded from eligibility for transfer under the new exemption for Australia, the United Kingdom, and the United States; and adding to the scope of the exemption for intra-company, intra-organization, and intra-governmental transfers to allow for the transfer of classified defense articles to certain dual nationals who are authorized users within the United Kingdom and Australia. The Department also seeks further public comment on these changes and whether they support the stated goals of this rulemaking. This interim final rule adopts the proposed rule published on May 1, 2024, with additional changes described below and implemented herein.

DATES:

Effective date: The rule is effective on September 1, 2024.

Comments due date: Comments due on or before November 18, 2024.

ADDRESSES: Interested parties may submit comments by one of the following methods:

- *Email: DDTCPublicComments@state.gov,* with the subject line ''Australia, the United Kingdom, and the United States ITAR Exemption''

• *Internet:* At *www.regulations.gov,* search for this notice using Docket DOS–2024–0024.

Those submitting comments should not include any personally identifiable information they do not desire to be made public or information for which a claim of confidentiality is asserted. Comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls (DDTC) website at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may submit comments via *www.regulations.gov,* leaving identifying fields blank.

FOR FURTHER INFORMATION CONTACT: Ms. Engda Wubneh, Foreign Affairs Officer, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (771) 205–9566; email *DDTCCustomerService@state.gov,* ATTN: Regulatory Change, ITAR Section 126.7 Australia, the United Kingdom, and the United States Exemption.

SUPPLEMENTARY INFORMATION: On May 1, 2024, the Department of State (the Department) published a proposed rule with request for comments (89 FR 35028) to create an exemption designed to implement the provisions of section 38(l) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(l)), as added by section 1343 of the National Defense Authorization Act (NDAA) for Fiscal Year 2024 (Pub. L. 118–31). The proposed rule at § 126.7 stated that no license or other approval would be required for the export, reexport, retransfer, or temporary import of defense articles; the performance of defense services; or engagement in brokering activities between or among authorized users within Australia, the United Kingdom, and the United States provided certain requirements and limitations are met. The rule also proposed a new supplement no. 2 to part 126, which is an Excluded Technology List (ETL) designed to limit certain defense articles and defense services from being eligible for the provisions of § 126.7. Further, the Department proposed § 126.18(e) for transfers of classified defense articles to dual nationals, who are citizens of Australia and the United Kingdom and another country, provided all other criteria are met in this exemption. Lastly, the proposed § 126.15(c) and (d) aimed to implement a separate provision, section 1344 of the NDAA for Fiscal Year 2024, for expedited licensing for exports of defense articles and defense services to Australia, the United Kingdom, and Canada.

The Department acknowledges and appreciates the comments submitted in response to the proposed rule identified as 89 FR 35028 (herein ''proposed rule'') and is now publishing this interim final rule, which contains revisions to certain provisions of the proposed rule and additions to certain ITAR sections. The Department welcomes further public comment on the regulatory text of this interim final rule.

The main changes to regulatory text in this rule, compared to the proposed rule, are as follows:

• In § 123.10(a), the phrase ''pursuant to a license or other authorization, except for the exemptions in §§ 126.5 and 126.7'' is added to the statement that a nontransfer and use certificate (*i.e.,* Form DSP–83) generally is required for the export of significant military equipment and classified articles regardless of the form of the applicable export authorization while simultaneously clarifying that no nontransfer and use certificate is required for exports pursuant to the specified exemptions.

• In § 124.8(a)(5), § 126.7 was added to clarify that the exemption may be used to retransfer and reexport defense articles pursuant to this exemption that were originally exported via an agreement.

• In § 126.1(a), § 126.18(e) was added to the list of excepted exemptions from the section's country-based prohibitions.

• In § 126.7(b)(1), the term ''activity'' replaced the term ''transfer'' in order to more clearly express the inclusion of defense services and brokering activities under this exemption.

• In § 126.7(b)(2), the term ''broker'' was added to clarify that depending on the activity, the transferor, recipient, or broker all would need to register with DDTC, as appropriate. Further, language was added to clarify that a U.S. Government department or agency are authorized users of this exemption.

• For § 126.7(b)(4), the recordkeeping requirements in proposed § 126.7(b)(4) are removed in this interim final rule. The Departments notes recordkeeping requirements in § 120.15(e) apply to this exemption as they do for all other ITAR exemptions.

• For § 126.7(b)(6), this proposed provision was removed in this interim final rule. The proposed text was redundant and simply listed a number of ITAR requirements to which users are already subject. Further the proposed text to obtain nontransfer and use assurances was removed from the § 126.7 exemption, as these assurances are incorporated into the authorized user process.

• In § 126.7(b)(8), the reference to Restricted Data and the Atomic Energy Act of 1954, as amended, was removed as it is duplicative and is already referenced in § 120.5(c).

• In § 126.7(b)(8), the requirements for handling classified were changed to a note to § 126.7(b), and the industrial security requirement reference was updated for Australia.

• In § 126.15(c), the ITAR defined term ''person'' replaced the phrase ''corporate entities'' to clarify that individuals and entities are included in this provision.

• In § 126.15(d), the phrase ''To the extent practicable . . .'' was added to align with the NDAA for Fiscal Year 2024.

• In, § 126.18(e), the phrase ''retransfer or reexport'' replaces the term ''transfer'' in this provision to clarify more explicitly the types of transfers that are allowed.

• In supplement no. 2 to part 126, the Excluded Technologies List (ETL), is clarified and adjusted to better address the necessary and intended scope of exclusions:

○ The Missile Technology Control Regime (MTCR) exclusion no longer applies to unmanned aerial vehicle (UAV) flight control systems and vehicle management systems described in United States Munitions List (USML) Category VIII(h)(12).

○ The anti-tamper exclusion is clarified.

○ The exclusion specific to source code is removed in its entirety.

○ The exclusion of classified manufacturing know-how for certain articles described in USML Categories XI and XII is removed in its entirety.

○ The entry for articles in USML Categories IV(a)(3), (9), (10), and (11), (b)(2), (h)(5), and (i) was refined to exclude launchers for man-portable air defense systems (MANPADS), but not other articles described in paragraph (b)(2).

○ Excluded articles described in USML Categories XI and XIII are now described across multiple entries to better implement the intent of that entry, as follows:

■ All articles described in USML Category XI(a)(1)(i) and (ii) are excluded, as are articles described in paragraph (c) or (d) of USML Category XI that are specially designed for the excluded paragraph (a)(1) articles, and directly related technical data and defense services.

■ The exclusion of classified countermeasures and counter-

countermeasures is refined and split into multiple entries as follows:

- Classified articles described in USML Category XI(a)(2), other than underwater acoustic decoy countermeasures; classified articles described in paragraphs (c)(1) through (3) or paragraph (d) of USML Category XI specially designed therefor; and classified, directly related technical data and defense services are excluded.
- Classified articles described in USML Category XI(a)(3)(xviii), classified countermeasures and counter-countermeasures described in Category XI(a)(4)(iii), and classified articles described in Category XI(a)(5)(iii); classified articles described in paragraphs (c)(1) through (3) and (18) or paragraph (d) of USML Category XI specially designed therefor; and classified, directly related technical data and defense services are excluded.
- Classified articles described in USML Category XI(c) or (d) that implement countermeasures or counter-countermeasures for defense articles described in Category XI(a), and classified, directly related technical data and defense services, are excluded.

▪ The exclusion of classified articles described in USML Category XI(b), which also excludes classified, directly related technical data and defense services, is split out into a separate entry.

▪ Classified articles described in USML Category XI(c) specially designed for articles described in Category XIII(b); and classified, directly related technical data and defense services; are excluded. This replaces the previously proposed exclusions of articles specially designed for Category XIII(b) articles and classified articles for cryptographic systems.

▪ The exclusion of classified articles described in USML Category XIII(b) is split out into a separate entry, along with classified, directly related technical data and defense services.

○ Following consultations with the Department of Defense (DoD), the Department is adding classified articles described in USML Category XI(a)(4)(i), certain classified articles specially designed for those articles, and classified, directly related technical data and defense services to the previously proposed exclusions. The excluded articles and services relate to intelligence capabilities. Technology for integrating or incorporating U.S. National Security Administration data used in these electronic support articles requires case-by-case review to assess the sensitivity and releasability of the specific technology.

○ The exclusion of classified articles described in USML Category XII(d)(3) and directly related technical data and defense services is removed.

○ The exclusion of source code and classified technical data and defense services directly related to certain night vision commodities is removed in its entirety.

○ Classified articles in paragraphs (f)(7) and (12) of USML Category XIX, specially designed for excluded articles in paragraph (f)(1) or (2) of that category, and directly related technical data and defense services, are now excluded.

○ The entry for USML Category XX manufacturing know-how is modified to remove the exclusion for manufacturing know-how directly related to classified uncrewed vessels, and to also exclude design methodology and engineering analysis for crewed vessels, articles used only in crewed vessels, classified payloads, and classified uncrewed underwater vessel (UUV) signature reduction techniques.

A review and response to the public comments submitted on the proposed rule, organized by applicable proposed section of the ITAR, is as follows.

Public Comments and Responses

ITAR § 126.7: Exemption for Defense Trade and Cooperation Among Australia, the United Kingdom, and the United States

General Comments on the Proposed Rule

Several commenters expressed support for the proposed rulemaking effort and the Department acknowledges that support, while two commenters noted that they opposed the exemption outright as they assessed it could result in unsecured trade in munitions. The Department notes the terms of the exemption support secure defense trade and the trilaterally shared security standards associated with the protection of defense technology.

Section 126.7(a)

Two commenters recommended regulators commit to additional industry review for this exemption. The Department notes this rulemaking takes the form of an interim final rule, which allows for further public comment.

Two commenters proposed a specific exemption to allow government contractors from Australia, the United Kingdom, and the United States to work together more effectively without needing a license or other approval from DDTC. The Department notes the previously proposed exemption in § 126.7 allows for designated parties, including government contractors, from those three countries to use the exemption in support of their work, provided the terms of the exemption are met.

Two commenters recommended the addition of ''classified and unclassified'' before the phrase ''defense articles'' to more clearly include the type of export allowed and instructions given in § 126.7(a) and (b)(8), respectively. The Department notes throughout the ITAR, unless specified, the term ''defense articles'' applies to both unclassified and classified articles. For example, where a given provision refers specifically to ''unclassified defense articles,'' the scope of the provision applies only to unclassified defense articles. However, a reference to ''defense articles'' should be read to apply to both unclassified and classified defense articles.

Similarly, another commenter wanted confirmation that the § 126.7 exemption included technical data. The Department confirms the exemption includes technical data and notes that technical data is included in the ITAR definition of ''defense article'' found at § 120.31.

One commenter requested clarification as to whether retransfers are allowed under the § 126.7 exemption if the defense article was exported to Australia or the United Kingdom under another ITAR exemption. Similarly, another commenter asked whether one has to be an authorized user for retransfers under the § 126.7 exemption. The Department confirms such retransfers are permitted under § 126.7 provided all the criteria are met, including § 126.7(b)(2)(ii)—requirements associated with the transferor, recipient, or broker.

Two commenters requested clarification as to whether the original U.S. exporter, the original equipment manufacturer, and the recipient of a defense article exported under the § 126.7 exemption could apply for a retransfer or reexport authorization to a territory outside of Australia or the United Kingdom. The Department confirms that any of the three may apply for a retransfer or reexport authorization. Similarly, another commenter also recommended the creation of a new Open General License to allow for authorized users to reexport unclassified defense articles to destinations outside of Australia, the United Kingdom, and the United States. The Department acknowledges this comment and may consider this recommendation in the future.

One commenter recommended the Department set out in § 126.7(a) that activities described in the section are

not subject to a requirement for licensing or other approvals, rather than referring to the provision as an exemption. The Department declines to accept this recommendation and notes the exemption authorizes, without further licenses or other approvals from DDTC, activities authorized by the exemption, provided the criteria for use of the exemption are met.

Section 126.7(b)

One commenter suggested modifying § 126.7(b) to add the phrase ''Except as provided in § 120.54, the exemption described in paragraph (a) . . .''. The commenter also advised finalizing and incorporating the text from the proposed rule (87 FR 77046) to this interim final rule, especially § 120.54(a)(6) regarding the taking of defense articles subject to this subchapter on deployment or training exercises to countries not previously approved. The Department notes this activity generally is already allowed, presuming there is no change in end-user or end-use, and is the subject of a separate rulemaking (87 FR 77046, Dec. 16, 2022) (proposed) and FR Doc. 2024–18249, scheduled to publish on August 15, 2024 (RIN 1400–AF26). As for the expressed reference to § 120.54, the Department declines to adopt this suggestion, as no other ITAR provision outside of part 120 references § 120.54. That provision is definitional and therefore applies to the entire ITAR. Including a specific reference in this one instance could lead to confusion as to whether other provisions of the ITAR must specifically reference that or other definitional provisions.

Three commenters asserted proposed § 126.7(b)(4), (6), and (7) are additional limitations and requirements not specified in AECA section 38(l)(4). The commenter further claimed this statutory exemption also states that it ''exempt[s]'' the applicable transfers ''from the licensing and other approval requirements'' of the AECA and that it should not be called an exemption, but rather something else. The Department disagrees with this commenter's interpretation. While an exemption is a type of authorization and a type of other approval, the statutory language in AECA section 38(l) states that the Department ''shall immediately exempt from the licensing or other approval requirements of this section exports and transfers . . . .'' The Department interprets the provision to refer to creating an exemption from the requirement to obtain, prior to a regulated activity, either a license *or* other approval, *i.e.,* a written document DDTC may issue in lieu of a license, such as a Technical Assistance Agreement, to approve a regulated activity. Further, the Department does not interpret the provision as creating an exemption while restricting its ability to issue an exemption. ''Exemption'' is the term the statute repeatedly uses, and what § 126.7 will create is an exemption consistent with the definition in § 120.57(c).

Similarly, another commenter asserted that § 120.11(c) does not apply to this provision, and the Department cannot impose requirements on reexport and retransfers. The Department disagrees. The requirements of the ITAR, including but not limited to registration, recordkeeping requirements, § 120.11(c), and penalties for violations continue to apply to this exemption as they do with other exemptions, such as the Canadian exemptions. The part of the law the commenter relies upon to support their argument, 22 U.S.C. 2778(l)(2), is not an independent export authority. Instead, that provision simply empowers the Department to issue a country-based exemption under its other core unaltered authorities in section 2778(a) and (b). This is further supported by the fact that in section 2778(f)(2) the Department's ability to issue a country-based exemption under its core existing authorities were at one point restricted before being allowed again for the United Kingdom (UK) and Australia by section 1345(a) of the NDAA for Fiscal Year 2024. Consequently, the Department is required to issue an exemption only from the AECA and ITAR requirements to obtain a license or other approval for exports and various transfers, not from other ITAR provisions, which still do and will apply.

Section 126.7(b)(1)

Several commenters recommended expansion of the scope of transfers allowed in § 126.7(b)(1) to include transfers (1) to or within the physical territory of Australia, the United Kingdom, or the United States; (2) to members of the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity or while on deployment; (3) to government employees of Australia, the United Kingdom, and the United States; (4) to § 126.7 authorized users deployed in support of such armed forces, to include maintenance, repair, and overhaul providers; (5) to international waters when in support of AUKUS testing or operations; and (6) by Australian, U.S., and UK persons to export or transfer defense articles for end use by the armed forces of Australia, the United Kingdom, or the United States outside of their physical territories. Commenters expressed that the proposed § 126.7 precludes support in various ways, including to the three countries' armed forces when deployed outside their physical territories, and restricts contractors in support of those armed forces while deployed. This exemption is subject to statutory implementation requirements mandating its introduction in relatively short timeframes. The scope of the suggested changes is significant and additional time is required to consider them. The Department has determined that an interim final rule with another round of public comments will support continued refinement of the exemption to ensure the exemption works for the regulated community and supports the goals of this rulemaking.

One commenter recommended revising the proposed § 126.7(b)(1) text to include the clarifying phrase ''. . . the transfer of defense articles or performance of defense services must be to or within the physical territory . . .'' to clarify that transfers applies to defense articles and defense services. The Department accepts this comment in part and amends § 126.7(b)(1) to clarify that the term ''activity'' includes brokering and the provision of defense services within the scope of the exemption.

Two commenters recommended the creation of a definition of Australia and the United Kingdom in the ITAR, similar to how the United States is defined in § 120.60. The Department declines to adopt a specific definition for any one foreign country. Longstanding practice and the ordinary meaning of a country's physical territory has been understood in both the ITAR and the Department of Commerce's Export Administration Regulations (EAR). Should an unusual and country-specific question as to physical territory arise, the Department recommends asking it within an advisory opinion request pursuant to ITAR § 120.22.

One commenter sought clarification regarding the scope of the exemption with respect to ''cyber physical space'' managed by Australia, the United Kingdom, or the United States. The Department clarifies that servers hosting technical data in one of the three countries would still be within the physical territory of Australia, the United Kingdom, or the United States; however, transfers of technical data must be to or from those that meet the criteria set out in § 126.7(b)(2). Further, the Department notes the text of § 120.54, which lists activities that are not exports, reexports, retransfer, or temporary imports, including sending,

taking, or storing of certain encrypted unclassified technical data that meet the specific criteria provided there.

Another commenter sought clarification as to whether a U.S. person who works for a U.S. company can utilize the § 126.7 exemption while traveling outside the United States. The Department notes that, per the proposed § 126.7(b)(1), the transfer must be to or within the physical territory of Australia, the United Kingdom, or the United States. Similarly, the Department again notes the text of § 120.54, which lists activities that are not exports, reexports, retransfer, or temporary imports.

Three commenters asked whether retransfers or reexports are allowed under § 126.7 if an ITAR-controlled defense article is exported from a non-authorized user to an authorized user. The Department clarifies that both transferors and recipients would need to be authorized users, in addition to meeting all other criteria in § 126.7, before retransfers or reexports would be allowed under this exemption.

Section 126.7(b)(2)

Several commenters requested more information regarding the authorized user process. While additional information and guidance on the enrollment process will be provided separately, the Department notes that Australian and UK entities will manage the authorized user enrollment process through their respective governments.

Several commenters asked how often the authorized user list in the proposed § 126.7(b)(2)(ii) will be updated, as well as whether there will be an annual reevaluation process to remain on the authorized user list. Some commenters recommended the list be published on a public website, rather than within a user-restricted website such as the Defense and Export Control Compliance System (DECCS). Further, one commenter requested guidance to confirm that ''a transferor should require no additional due diligence steps beyond checking the list . . .'', and another asked if industry will need to provide notice and then wait for approval from DDTC before each transfer of a defense article. The Department notes it is developing separate guidance on the use and administration of the authorized user list and based off of consultations with representatives from Australia and the UK, that will be released shortly through the DDTC website.

Similarly, another commenter suggested the inclusion of validity dates with the list of authorized users and provide a process to notify current authorized users when persons are removed from the list of authorized users. The Department reiterates that it is developing separate guidance on the use and administration of the authorized user list, including these points, that will be released shortly through the DDTC website.

One commenter expressed concern that the authorized users for Australia and the UK would only include those that chose to enroll, and this is not the case for other ITAR exemptions. The Department cannot require Australian or UK entities to become authorized users as that is a business decision for them to make. The Department is designing the authorized user process, in coordination with the UK and Australian governments, to encourage interest to use the § 126.7 exemption.

One commenter inquired if foreign entities who are authorized users could access DECCS and if they could apply for a Technical Assistance Agreement through DECCS or would need to submit a General Correspondence request. The Department affirms non-U.S. authorized users will have access to DDTC's website after enrolling and will be able to view the authorized user list. The Department is not designing additional functionality for non-U.S. authorized users in DECCS. Further, under 22 U.S.C. 2778(g)(5), the Department is prohibited from issuing export licenses to foreign persons. As a result, the Department does not accept the commenter's suggestion to modify DECCS to allow foreign persons to apply for Technical Assistance Agreements and other types of export authorizations. Foreign persons can submit General Correspondence requests seeking authorization to reexport and retransfer defense articles, and foreign persons owned or controlled by U.S. persons may seek approval to engage in brokering activities.

Two commenters requested the Department work with industry to publish an authorized user list in a form that can be directly accessed by industry-standard automated screening software just as it does for denied parties. The Department, in coordination with the UK and Australian governments, is designing the list to be as simple as possible to use, while maintaining certain security protocols. The Department does not develop or support third-party screening software and cannot speak to its integration with the authorized user list.

One commenter asserted that the Department should not confirm the eligibility of U.S. registrants who are not utilizing the exemption for defense trade and cooperation among Australia, the United Kingdom, and the United States. The Department clarifies DDTC will not confirm to third parties a U.S. registrant's eligibility to participate in a transfer via the § 126.7 exemption. Similarly, another commenter asserted the Department should not vet entities that the Australian and UK governments have already vetted as it is counterproductive. The Department disagrees with the premise that its vetting of parties is counterproductive as approval by both governments ensures comprehensive vetting of entities.

Two commenters recommended members of the Australian, UK, and U.S. governments be separately enumerated within § 126.7(b)(2) so one does not need to check the authorized user list. The commenters added the enumerated list should include all departments and agencies, and contractor support personnel thereof, of the Australian, UK, and U.S. governments. The Department requires the Australian and UK governments' department or agencies be identified on the authorized user list, instead of the regulatory text itself, to provide agility and flexibility in implementing updates. The Department further clarifies that the exemption would cover ''contractor support personnel thereof'' if the contractor personnel are authorized users.

Two commenters warned that certifying authorized users for the § 126.7 exemption will be overly complex and recommended against using a ''positive'' list of authorized users. Conversely, another commenter supported identifying U.S. registrants on a list accessible to exporters and reexporters on an official website. Further, two commenters suggested the Department have a help desk to aid entities with inquiries about the registration status of a company. The Department notes that only authorized users of Australia and the UK will be identified on the authorized user list on DECCS. Further, the Department is developing separate guidance on use and administration of the authorized user list that will be released shortly through the DDTC website.

Two commenters suggested certain entities should immediately be presumed eligible to be authorized users. These include government agencies and organizations of Australia and the United Kingdom, foreign subsidiaries of U.S. registered companies, and any party previously authorized for the export of defense article. Further, another commenter suggested to identify UK and Australian companies by business registry numbers

and for the Department to align changes to the authorized user list with the general correspondence process for Foreign Entity Name Changes to ensure that both lists remain current. The Department notes because defense articles and defense services provide a critical military or intelligence advantage, vetting of eligible parties is vital to maintaining secure defense trade. The Department acknowledges these comments and notes it will publish separate guidance on the use and administration of the authorized user list that will be released shortly through the DDTC website. For prospectively eligible private entities, subsidiaries and affiliates might be included under the parent entity's authorized user status, depending on the parent entity's corporate structure and place of incorporation.

Three commenters requested confirmation that individual U.S. persons, including U.S. persons working abroad (USPABs), can be authorized users. Further, several commenters wanted confirmation that furnishing a defense service under § 126.7 is allowed by authorized users so separate USPAB authorization is not needed, and the defense services provided will not cause a foreign-produced defense article to become ITAR controlled. The Department affirms that all U.S. persons, as defined in § 120.62, including individual persons, are eligible to become authorized users. The § 126.7 exemption is a unique authorization not to be conflated with a USPAB authorization issued under § 120.22(b), which authorizes the export of limited defense services only. The Department reconfirms that the mere presence or involvement of a U.S. person during the design, development, etc. of a foreign-origin defense article, or the provision of limited defense services authorized via a USPAB authorization, does not subject a resultant foreign-origin defense article to the ITAR or its reexport and retransfer requirements. However, to utilize the § 126.7 exemption, a U.S. person must be an authorized user—and defense services provided via the exemption subjects technical data and any resulting defense article to the ITAR, including retransfer and reexport restrictions outside the authorized user community. The Department will provide guidance on the authorized user process separate from this rulemaking. Transferors are best positioned to determine whether the § 126.7 exemption or a USPAB authorization best suits their needs. Similarly, another commenter requested confirmation that UK or Australian citizens, including dual nationals, can be authorized users such that their employers can transfer technical data to them under this exemption. The Department clarifies that UK and Australian dual nationals can be authorized users and § 126.18(e) outlines the exemption available to them for transferring classified defense articles.

One commenter recommended clarification that registration is required only for the applicable activity being conducted (*e.g.,* exporting or brokering). One does not need both unless they are conducting both activities. The commenter suggested to amend the proposed § 126.7(b)(2)(i) with U.S. persons registered with the applicable registration type (*i.e.,* manufacturer, exporter, and/or broker) and not debarred under § 127.7. The Department accepts this comment in part and has amended the regulatory text herein.

Several comments were submitted pertaining to brokering requirements under the new exemption. These included:

- whether brokering registration as described in part 129 is required for proposed § 126.7(b)(2)(i);
- whether §§ 129.4 and 129.10(b) should be revised to clarify if entities that engage in brokering under this exemption need to register and furnish reports to DDTC;
- if the brokering recipient must be an authorized user that is supporting AUKUS; and
- if a foreign broker needs to be an authorized user and be registered as a broker;

The Department confirms that brokering registration is required per § 129.3, with certain exceptions. The Department also notes that the brokering requirements covering exemptions are already specified in § 129.4, and there is a reporting requirement in § 129.10(b) that still applies with this exemption. The recipient of any defense article must be an authorized user or registered U.S. person per proposed § 126.7(b)(2)(i); however, the proposed exemption is available for use between and among Australia, the United Kingdom, and the United States, and need not be in support of AUKUS. Lastly, the Department clarifies that foreign persons who are brokers as defined in § 129.2 must register with the Department to engage in brokering activities and must be an authorized user, per proposed § 126.7(b)(2), to use this exemption. The Department amends the proposed § 126.7(b)(2) to clarify that U.S. and foreign persons must be registered with DDTC pursuant to §§ 122.1 and 129.3, as appropriate.

Relatedly, several commenters made requests for more outreach events regarding the § 126.7 exemption and the authorized user process as well as guidance materials, including Frequently Asked Questions (FAQs) to be shared with the regulated community. The Department agrees and notes that it intends to conduct outreach and issue further guidance and FAQs on the exemption.

One of these commenters sought clarification as to whether freight forwarders, carriers, and warehousing companies need to be authorized users. The commenter similarly asked if subcontractors need to be authorized users if they receive documentation in relation to a defense article from an existing authorized user. The Department clarifies that, for purposes of § 126.7(b)(2), anyone who has access to a defense article would need to be an authorized user. We note that many carriers and other service providers do not require such access; however, freight forwarders often do as they require access to the defense articles they are processing.

Four commenters recommended expansion of the scope of the § 126.7 exemption to include British and Australian persons employed by an authorized user in the United States to avoid the need for a Foreign Person Employment (FPE) license, and to expand the exemption to include U.S. persons working abroad (USPABs) who provide defense services to an employer who is an authorized user. The Department notes that an expansion of the exemption is not needed as the existing text may be used by Australian or British FPEs or USPABs who can satisfy the elements of § 126.7, including by becoming an authorized user. However, the Department clarifies that any defense article produced or manufactured from U.S.-origin technical data or defense service(s) transferred via § 126.7 may only be transferred pursuant to a DDTC license or other authorization, which may include the § 126.7 exemption itself. In other words, any defense article that is designed, developed, engineered, manufactured, produced, assembled, tested, repaired, maintained, modified, operated, demilitarized, destroyed, processed, or used by an FPE or USPAB pursuant to § 126.7 becomes subject to the ITAR.

Another commenter sought clarification regarding how USPAB authorizations intersect with the § 126.7 exemption, in particular for dual nationals or those with Australian permanent residency. The Department notes a USPAB authorization is for limited defense services. For dual

nationals, the Department notes there are ITAR exemptions available, such as in § 126.18.

One commenter requested clarification regarding the text ''. . . DDTC will confirm eligibility of parties under this exemption prior to the transfer . . . . of defense articles or defense services'' in the proposed rule and if this was a requirement prior to each transfer and what the process is for confirming eligibility of parties. The Department clarifies there is no requirement to check with the Department prior to each transfer and additional guidance on how this process will work will be released shortly through the DDTC website.

Section 126.7(b)(3)

One commenter recommended the addition to § 126.15 of a list of defense articles for which the U.S. Government requires a license for national security reasons and recommended the public have an opportunity to comment on that list. The Department notes the list, called the Excluded Technology List (ETL), in supplement no. 2 to part 126 articulates those defense articles and defense services that are not eligible for the exemption in § 126.7. This list was created based on a combination of statutory obligations and policy decisions, including national security reasons. The public had an opportunity to comment on that list when the proposed rule published on May 1, 2024. Further, the public may continue to comment on that list with this interim final rule.

Many commenters asked how often the ETL will be updated, and some asked if there would be an opportunity for industry input. The Department notes that it is statutorily required to conduct a review of the USML every three years and any applicable changes resulting from those reviews will be reflected in the ETL. Further, the U.S. Government has also committed to ensure that the items on the ETL will be specifically reviewed on a more frequent basis, annually for the first five years from implementation and periodically thereafter, and changes will be made to the ETL, depending on the outcome of each review.

One commenter asked whether transfers of third-country origin (*e.g.,* South African-origin; German-origin) defense articles between and among authorized users is allowed under § 126.7, provided such transfer occurs to or within the physical territory of Australia, the United Kingdom, and the United States and the defense articles are not listed on the Excluded Technology List. The Department notes the ETL describes defense articles, which includes foreign-origin defense articles, and if the foreign-origin defense articles are subject to the ITAR, are not on the ETL, and all other criteria are met, one may elect to use the § 126.7 exemption.

Section 126.7(b)(4)

Several commenters asked if the recordkeeping requirements in § 120.15(e) apply to the proposed § 126.7 exemption and how the proposed § 126.7(b)(4) differs. Similarly, several commenters recommended the replacement of § 126.7(b)(4) with § 120.15(e), and another commenter recommended confirmation that ITAR recordkeeping requirements are satisfied if the recordkeeper meets the recordkeeping obligations of the comparable national export control system in their nation. Because the recordkeeping requirements are already present in § 120.15(e) and are applicable to any kind of exemption, including the one at § 126.7, the Department will remove § 126.7(b)(4) from § 126.7 to avoid suggesting the recordkeeping requirements for the new exemption are any different than those for any other exemption. The requirements set out in the proposed § 126.7(b)(4) were similar to § 120.15(e), with the exception of criteria such as recording the Electronic Export Information (EEI) Internal Transaction Number (ITN) in one's records. Of note, the EEI number required in § 120.15(e) is only applicable to certain transfers as it is the electronic export data filed in the U.S. Customs and Border Protection's Automated Export System (AES). If your transaction required an EEI filing, then you should maintain it in your records; if it did not, then that is not part of the record. The Department also declines to accept a different nation's recordkeeping requirements as meeting the ITAR's requirements.

One commenter claimed there is nothing established regarding processes and procedures to track and report defense articles received under this exemption and differentiate between this exemption and other ITAR exemptions. The Department acknowledges this comment; however, the standard recordkeeping requirements under this exemption are the same as the standard recordkeeping requirements other ITAR exemptions are subject to (see § 120.15(e)). How companies wish to document and track and report ITAR-controlled technical data releases or transfers of defense articles is at the discretion of each company. The Department does not set expectations about what processes or procedures to use to meet that requirement.

Several commenters raised a concern that recording an individual's personal information and associated data has privacy implications and suggested recording the details of the entity rather than the natural person. The Department clarifies maintaining internal records of ''the name of the natural person responsible for the transaction'' refers to the transferor, not the recipient. Understanding who is responsible for executing a transfer is standard in a compliance program, allowing entities to identify problems and self-correct, and supports audits. Similarly, several commenters raised concerns that tracking certain information required for record keeping may violate the European Union's General Data Protection Regulation if shared with the Department and sought clarification as to what the term ''transaction'' means in this provision. The Department notes that these are the standard recordkeeping procedures that exist today and with which companies must comply with to operate under the provisions of the ITAR. Review of these recordkeeping requirements is not the subject of this rulemaking, but the Department may use the information obtained here to inform a future rulemaking. Further, the Department clarifies that term ''transaction'' in the proposed § 126.7(b)(4) referred to the transfer of the defense article or provision of the defense service; however, that proposed provision has been removed in this interim final rule since recordkeeping requirements are already captured in § 120.15(e).

One commenter requested confirmation that the § 126.7 exemption requires the authorized user to keep all shipping information pursuant to the exemption. The Department notes that § 120.15(e) articulates the recordkeeping requirements for ITAR exemptions, to include shipping information.

One commenter requested clarification as to who is responsible for keeping records and what constitutes a sufficient record for a technical data exchange. The Department notes technical data releases are subject to recordkeeping requirements. The Department further confirms it is removing the previously proposed § 126.7(b)(4), as § 120.15(e) sufficiently articulates the recordkeeping requirements for the § 126.7 exemption and § 120.15(e) is the provision to which a transferor should refer.

One commenter sought clarification regarding the phrase ''. . . and such records must be made available to DDTC upon request . . .'' in § 126.7(b)(4). The

Department acknowledges this comment while noting that the subject subparagraph is removed in this rule, as explained above.

Section 126.7(b)(5)

One commenter suggested modification of the proposed § 126.7(b)(5) to state that ''The value of the transfer does not exceed the amounts described in § 123.15 and does not enable the manufacturing abroad of significant military equipment as described in § 124.11.'' The Department notes there are separate statutory requirements for congressional certifications (sometimes referred to as congressional notifications), which are based on value thresholds associated with the transaction, including those for exports of major defense equipment, as described in § 123.15. Further, manufacturing abroad of significant military equipment is not allowed under this exemption, as this activity is subject to congressional certification requirements. To the extent the commenter suggests replacing the word ''involve'' with ''enable'' in the regulatory text, the Department declines that suggestion and will keep the former term, which is also the one used in the controlling statute, 22 U.S.C. 2776(d).

Two commenters noted there is an opportunity to reform how congressional certifications are handled with the § 126.7 exemption. Similarly, another commenter suggested changing the congressional certification process for transfers eligible for expedited licensing but subject to reporting to Congress. The commenter stated 22 U.S.C. 2276(c) and (d) set requirements for the President to report to Congress when licenses are submitted, and both provisions grant the President the opportunity to use an emergency certification to waive the requirement and instead issue the license. The commenter further recommended furnishing an annual report for the AUKUS-related licenses to Congress. The Department presumes the commenter intended to cite 22 U.S.C. 2776(c) and (d) and not 2276(c) and (d). Given the type of transfers the Department anticipates being eligible for the exemption at § 126.7, the Department does not assess it could certify that each transfer constitutes the type of emergency contemplated under 22 U.S.C. 2776. The Department appreciates feedback on how it may expedite existing processes and will use the information provided as appropriate.

Four commenters suggested the Department remove § 126.7(b)(5) and eliminate unnecessary congressional certification requirements because the commenters asserted that, under 22 U.S.C. 2778(l)(2), Congress explicitly required that the Department exempt certain defense articles from export license requirements. Thus, by failing to eliminate corresponding congressional certification requirements for these covered defense articles, the proposed rulemaking will require exporters to apply for licenses to ensure that congressional certifications are submitted. Further, the commenters suggest, the Department will be notifying Congress of exports Congress already exempted from the export licensing requirements and any associated congressional certification requirements. The Department disagrees with the comment and assesses that the exemption at § 126.7 is consistent with both the scope of 22 U.S.C. 2778 and with the Department's obligations under 22 U.S.C. 2776 to provide notification to Congress of the types of exports described in 22 U.S.C. 2776(c) and 2776(d). Within 22 U.S.C. 2778(l)(6), Congress specifically made the congressional certification requirements of 22 U.S.C. 2753 not applicable to items transferred under the exemption but did not mention 22 U.S.C. 2776. Furthermore, the authority to issue the exemption under 22 U.S.C. 2778(l) is modeled after many provisions in 22 U.S.C. 2778(j) and 2778(j)(3)(C), which requires that congressional certifications continue to be notified regardless of any exemption issued under 22 U.S.C. 2778(j). One commenter suggested to task the State Department's Defense Trade Advisory Group (DTAG) to explore whether congressional approval requirements should remain in place under the Arms Export Control Act for exports to (§ 123.15) and manufacturing of significant military equipment (SME) (§ 124.11). The Department notes it is unnecessary to task the DTAG with assessing the Department's legal obligations, as that is the Department's responsibility. The Department assessed, consistent with 22 U.S.C. 2778(j)(3)(C) and (l)(6) the congressional certification obligations contained in 22 U.S.C. 2776 apply to exports conducted under the exemption in § 126.7.

Two commenters sought clarification regarding the § 126.7 exemption and congressional certification given the fact that both existing Australia and UK Defense Trade Cooperation Treaties (DTCT) exemptions contain an entire section on congressional certifications. Similarly, another commenter recommended inclusion of a provision similar to the procedures for legislative notification described under § 126.16(o) as the commenter asserts it allows for the congressional certification process to be executed without a license application. The Department notes the statutorily authorized § 126.7 exemption is separate from the Australia and UK DTCT exemptions, which were authorized under treaties. Comparing the criteria and conditions of § 126.7 to those articulated in §§ 126.16 and 126.17 is not appropriate because those sections implement the DTCT, rather than exemptions to the routine ITAR license requirements. The congressional certification requirements for transfers conducted pursuant to the DTCTs are unique and distinct from those articulated in 22 U.S.C. 2776 and ITAR §§ 123.15 and 124.11. Further, transfers that do not meet all of the criteria articulated in § 126.7 are not eligible for the exemption. This includes transfers that exceed a certain dollar value threshold or those that involve the manufacture of significant military equipment abroad. Those transfers will continue to require licenses or other authorizations consistent with the routine procedures and requirements, and the export authorization for those transfers will be the applicable license or agreement rather than the exemption.

One commenter sought clarification as to how the values of intangibles, such as conversations involving technical data, should be calculated. The Department confirms that the value of every transfer should be calculated because transfers that exceed certain values are not eligible under § 126.7(b)(5) and may require congressional certification in line with the provisions of ITAR §§ 123.15 and 124.11. The Department defers to exporters on the most appropriate formula to calculate the value of intangible transfers. When establishing the value of a transfer, exporters should strive for consistency regardless of whether a transfer will occur pursuant to a license, agreement, or exemption.

One commenter sought confirmation as to whether a license is required if a contract was modified and the values exceeded the congressional certification thresholds articulated in § 126.7(b)(5). The Department confirms a license or other authorization would be required for exports exceeding the congressional certification value thresholds or involving the manufacture of significant military equipment abroad.

One commenter suggested the Department provide information regarding the use of the § 126.7 exemption and the congressional certification requirement pursuant to § 123.15. The Department confirms the § 126.7 exemption may not be used to

conduct exports that require congressional certification as described in § 123.15.

One commenter recommended that congressional certification values be calculated separately for each transfer under the exemption provided the transfer is not split or structured to avoid exceeding applicable notification dollar value limits. The Department does not dispute this approach.

Section 126.7(b)(6)

One commenter recommended replacing § 120.16 with § 120.16(c) in the proposed § 126.7(b)(6) text. The Department rejects this comment, as all of § 120.16 applies to the § 126.7 exemption. The same commenter suggested § 126.7(b)(6) is redundant and the Department should consider its removal. The Department accepts this comment and removed this provision; however, the Department notes that use of the exemption still requires adherence to all applicable sections in the ITAR, including registration and recordkeeping requirements.

Three commenters asked if part 130 reports are required with the proposed § 126.7 exemption, how those reports should be provided to DDTC with no associated license application in DECCS, and whether ITAR exemptions in general require part 130 reporting. The Department clarifies that ITAR exemptions do not require part 130 reporting, as exemptions do not require an applicant to seek authorization from DDTC pursuant to §§ 130.2 and 130.9.

Four commenters recommended removal of the requirement to obtain nontransfer and use assurances through the DSP–83 form from the § 126.7 exemption and incorporation of those assurances in the authorized user process. The Department accepts this comment and amends § 123.10(a) with a clarification to that effect. Similarly, five commenters requested removal of the DSP–83 signature requirement for Australia and the United Kingdom, similar to how the Canadian government is treated. The Department accepts this comment. The Department notes that the Canadian government is not required to sign DSP–83s because the government has communicated the necessary assurances to the Department through other means. The UK and Australia governments have also provided the necessary assurances through other means. Two commenters recommended that Australia, the United Kingdom, and the United States agree to one common format for nontransfer and use assurances. Lastly, one commenter asked if nontransfer and use assurances require ink signature and original copies to be maintained and are electronic signatures and/or scanned copies allowed. As previously mentioned, the Department has incorporated the nontransfer and use assurances into the authorized user process. Separately, the Department accepts the use of electronic, digital, or wet signatures provided the name of the individual signing is clearly legible (*e.g.,* printed below the electronic signature), and there is a date provided with the signature.

Section 126.7(b)(7)

One commenter requested clarification on how § 123.9(b) works with this exemption, particularly in the case where a recipient is receiving an intangible, *e.g.,* certain technical data. The Department clarifies that § 123.9(b) refers to tangible items only and it sets the requirement that the exporter must notify the end user of certain criteria, including the exemption citation, if an exemption is used.

Section 126.7(b)(8)

One commenter recommended the addition of a note to § 126.7(b)(8) stating: ''NOTE: Refer to the Atomic Energy Act of 1954 for any transfers of Restricted Data as defined in that Act'' since the proposed exemption appears to imply that Restricted Data could be exported under the exemption. The Department acknowledges and partly accepts the comment. The Department deleted reference to Restricted Data and the Atomic Energy Act of 1954 from the regulatory text, given it is already referenced in § 120.5(c). Because that text regarding Restricted Data was deleted from what was originally proposed in § 126.7(b)(8), there is no need for the clarifying note. Relatedly, the Department takes this opportunity to remind the public that the ITAR exemption does not authorize permanent imports of defense articles and defense services described on the U.S. Munitions Import List (USMIL). Regulations pertaining to permanent imports are administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives and are found at 27 CFR part 447.

One commenter asked if § 126.7(b)(8) was necessary to include in the exemption given the handling of classified materials are subject to other laws, and it should be a note to paragraph (b) rather than a limitation or requirement, especially since it is not specified by AECA section 38(l)(4). The Department accepts this comment and amends the regulatory text with the addition of a note to paragraph (b).

ITAR § 126.15: Expedited Processing of License Applications for the Export of Defense Articles and Defense Services to Australia, the United Kingdom, or Canada

Section 126.15(c)

Two commenters recommended revision and expansion of the expedited license process to include the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity outside the physical territory of the countries and to entities deployed in support of the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity. Further, the commenters suggested the term ''corporate entities'' in the proposed § 126.15(c) is confusing, leading one commenter to recommend replacing that term with ''person'' as defined in § 120.61. This would, the commenter suggested, clarify that natural persons and academia qualify for expedited licensing too. The Department declines to accept the comment to expedite the license processing timelines for exports to members of the armed forces of Australia, the United Kingdom, or the United States and entities that support those armed forces while deployed outside the physical territories of these countries. That would expand the expedited licensing application processing timelines beyond that which Congress required. Moreover, the ability for a country's armed forces to take defense articles to third countries is the subject of a different rulemaking (87 FR 77046, Dec. 16, 2022) (proposed) and FR Doc. 2024–18249, scheduled to publish on August 15, 2024 (RIN 1400–AF26). However, the Department does accept the recommendation to replace ''corporate entities'' with ''person'' in § 126.15(c).

Four commenters recommended expanding the expedited licensing process beyond exports to also include reexports, retransfers, and temporary imports of defense articles; the performance of defense services; and brokering to, among or within Australia, the United Kingdom, Canada, or the United States. The Department appreciates the comment but declines to expand the scope of § 126.15(c) as it implements the provisions of section 1344 of NDAA for Fiscal Year 2024, which require the Department to expedite export license applications and do not extend to reexports, retransfers, brokering, or temporary import requests.

Three commenters recommended the Department create a policy of ''presumption of approval'' in § 126.15 for all AUKUS-related applications;

where the ultimate end user is the Government of Australia or the Government of the United Kingdom and where all parties to the transaction, with the exception of freight forwarders and brokers, are incorporated in the United States, United Kingdom, Canada, New Zealand, or Australia who have previously received a DDTC approval for the same articles. The Department acknowledges this comment; however, it is outside the scope of the rulemaking. The Department is implementing the provisions of section 1344 of NDAA for Fiscal Year 2024. Three commenters suggested the Department make public how it intends to facilitate the expedited licensing process, including the U.S. Government's adjudication timeframes. Further, one commenter recommended the Department update its licensing guidelines, including the Agreement Guidelines, with standardized language to easily identify which applications meet the expedited licensing criteria. Two commenters suggested that DDTC create a dedicated, internal AUKUS coordination office. The Department declines to publish detailed information about the deliberative license adjudication process. Further, the Department notes it is not necessary to update the Agreements Guidelines to identify license applications that qualify for expedited treatment under § 126.15 as the Agreements Guidelines and other licensing instructions already require submission of any information necessary to determine whether § 126.15 applies to a specific submission. The Department also can confirm that National Security Presidential Directive-56 has already established defined timeframes for U.S. Government adjudication of all license requests, including those licenses that involve Australia, the United Kingdom, and Canada. Adherence to those existing timeframes will enable the expedited processing of license applications consistent with § 126.15. Lastly, the Department notes the recommendation to establish a AUKUS coordination office is outside the scope of this rulemaking.

Another commenter recommended that DDTC provide standardized provisos for these expedited license applications to alleviate uncertainty on the scope of activities, technical exchanges, and defense services that are authorized. The Department appreciates the comment; however, the Department has endeavored to create the § 126.7 exemption with the broadest possible applicability and predictability. The transfers that cannot be undertaken pursuant to the exemption at § 126.7 or another exemption within the ITAR are likely to be more unique transfers that may not lend themselves to standard provisos. To the extent the commenter is encouraging the Department to standardize provisos more generally, the Department recognizes the value in that line of effort and is already undertaking steps to ensure provisos are applied more consistently on licenses in the future.

Another commenter recommended that AUKUS-related licenses be free of provisos and conditions. The Department notes a commitment by DDTC to expedite the licensing review timeline should not be confused with a commitment by DDTC to approve the scope and content of all license requests for Australia, the UK, or Canada. The Department is still required to vet license applications for foreign policy and national security considerations. This requires vetting individual parties on license applications to assess risks of diversion and to ensure proposed exports are consistent with the United States's multilateral regime commitments, including those articulated in the Missile Technology Control Regime (MTCR). Occasionally, that vetting will require DDTC to include provisos or conditions when approving a license.

Four commenters recommended that AUKUS-related license applications not be staffed to the interagency for review when they are ''in furtherance of'' (IFO) licenses, or licenses that require congressional certification. Additionally, one commenter stated that licenses that do require congressional certification should be subject to a shorter processing period, for example, less than five business days. These commenters suggest that those applications, including relevant IFO licenses, were already reviewed when the existing agreement was adjudicated and as part of the congressional certification process. Another commenter suggested removing the current increase in value thresholds or scope expansions that prompt re-notification of previously notified programs. The Department notes these comments are outside the scope of the rulemaking as they offer recommendations regarding the Department's internal deliberative process for adjudicating licenses and not the previously proposed regulatory text. However, the Department takes this opportunity to note that the types of license applications that trigger congressional certification thresholds or involve the manufacture of SME abroad are generally the types of cases that warrant case-by-case review and consideration. As a result, it would not be appropriate to short-circuit the interagency staffing process for these cases or to mandate that they be notified to Congress in five business days or less. Furthermore, the Department has a long-standing arrangement and practice with Congress regarding the timeframe afforded for informal congressional review of license applications prior to formal certification. These suggestions would be inconsistent with that long-standing expectation and practice.

One commenter questioned whether anything should be notated in a license application submission to make it eligible for expedited review. The Department notes applicants are encouraged to submit any information that they believe would help facilitate an expeditious and streamlined review by the Department. Additionally, license application submissions are regularly reviewed to identify cases that qualify for expedited processing consistent with the provisions of § 126.15.

Two commenters requested retention of the ability to make licensing requests from Australia and the United Kingdom to the Department directly because U.S. exporters, at times, are no longer available to submit a reexport or retransfer authorization request. The Department confirms that Australian and UK companies are free to submit reexport and retransfer requests. To the extent that such requests by Australian and UK companies are intended to change the scope of existing active agreement, those amendments should be submitted by the U.S. exporter in order to ensure that the Department has a single record and authorization of the full scope of activities necessary to support a given line of effort. This is necessary, among other reasons, to ensure that the Department complies with applicable congressional certification requirements under 22 U.S.C. 2776.

One commenter requested confirmation that a UK company could rely on § 126.15(a) for expedited processing of a license application. The Department notes that the expedited licensing procedures outlined in § 126.15 apply to export licenses, not licenses for reexports, retransfers, or temporary imports. Because foreign companies are not permitted to submit export license applications under 22 U.S.C. 2778(g)(5), a UK company would not be able to request expedited processing under § 126.15. The same commenter inquired if there could be expedited processing for General Correspondence requests. The Department notes that the NDAA for

Fiscal Year 2024 requirements being implemented by this section apply to export licenses, not reexport or retransfer authorizations. The Department, therefore, will not commit to expediting such requests in this section of the ITAR but will continue to process them as appropriate.

Section 126.15(d)

Five commenters recommended the Department clarify whether Memorandums of Understanding (MOUs) and Foreign Military Sales (FMS) benefit from the expedited licensing process described in § 126.15(d). Expedited licensing is not applicable to MOUs or FMS cases as the ITAR only regulates direct commercial sales (DCS) and does not govern the government-to-government process for concluding MOUs or Letter of Offer and Acceptances (LOAs) for FMS cases.

Further, two commenters asserted that expedited processing is reserved for license applications ''that are not covered'' by an ITAR exemption; however, the proposed rule stated, ''describing an export that cannot be undertaken under an exemption'' and recommends the provision be modified by replacing ''cannot be undertaken'' with ''is not covered.'' The Department declines to accept this recommendation because the Department assesses that the phrases ''cannot be undertaken under an exemption'' and ''is not covered by an exemption'' would apply equally to the scenarios presented by the commenters. In particular, if the U.S. Government has declined to take some step that is necessary for an exporter to rely on any exemption within the ITAR for a proposed export, that proposed export cannot be undertaken under an exemption and is not covered by an exemption.

One commenter recommended additional resources be committed to support the expedited licensing process because historically the proposed timeframes proposed in § 126.15(d) have not materialized. The Department disagrees, as data collected on license processing timelines does not support the commenter's statement. The same commenter also recommended the Department include in the annual report required by section 1344 of the NDAA for Fiscal Year 2024 a certification that the expedited timelines have been satisfied. This comment is outside of the scope of this rulemaking and section 1344 of the NDAA does not have an annual report requirement. The Department believes that the commenter may have meant to refer to section 1341 of the NDAA, which does require a related annual report. When preparing and submitting the report required by 22 U.S.C. 10411(e) (the location to which section 1341 of the NDAA for Fiscal Year 2024 was classified) the Department will include all required information.

Three commenters noted the expedited licensing timeframes proposed in this provision could result in cases being returned without action (RWA) if an agency is not ready to position the case and provide a response back to the DDTC within 30 or 45 days. Similarly, another commenter suggested the Department implement a process to hold a license for a specified period of time to permit minor changes and adjustments to a license that would otherwise be returned without action. The Department accepts these comments and amends § 126.15(d) with the qualifying phrase ''to the extent practicable'' in order to better reflect the statutory NDAA language in section 1344(c) (classified to 22 U.S.C. 10423(c)) to expedite certain applications and avoid unnecessary and burdensome RWAs when adjudication in the 30- or 45-day timeframe is not practicable.

Three commenters suggested the inclusion of a provision stipulating the automatic approval of licenses exceeding the 45-day review period and to identify which USML categories should trigger staffing to certain intra- and interagency offices/agencies that participate in the licensing review process, including the Defense Technology Security Administration (DTSA) for AUKUS-related cases instead of staffing all license requests to these offices/agencies. The Department declines to accept the recommendation to automatically approve licenses after 45 days. A commitment by the Department to expedite the license is not a commitment by the Department to approve all license requests for Australia, the United Kingdom, or Canada. The Department is still required to vet license applications for foreign policy and national security considerations. This requires vetting individual parties on license applications to assess risks of diversion and to ensure propose exports are consistent with the United States's multilateral regime commitments, including those articulated in MTCR. Additionally, recommendations regarding the policies and procedures the Department and the interagency apply to the deliberative process of reviewing individual license applications are outside the scope of this rulemaking.

One commenter sought clarification as to what constitutes a government-to-government agreement and how would the regulated community know if a government-to-government agreement exists. A government-to-government agreement is used to authorize Foreign Military Sales (FMS), coproduction agreements, or other authorizations between governments to export defense articles and defense services outside of the ITAR or direct commercial sales (DCS) framework. Parties to exports that are related to such agreements would have such information from their company or contractor and would identify it on their license applications to qualify for the expedited process.

Two commenters suggested the Department provide expectations regarding the Department of Defense's Technology Security & Foreign Disclosure (TSFD) review process and Low Observable and/or Counter Low Observable (LO/CLO) review process and mandate that interagency review for AUKUS applications include expedited TSFD and LO/CLO approvals to ensure meeting the statutory timelines. The Department notes that the comment is outside the scope of the rulemaking as it offers recommended changes to the U.S. Government's internal deliberative process. The Department has, however, relayed this comment to the Department of Defense.

One commenter asked how AUKUS-related licenses would be identified to be subject to expedited licensing; requested Canada be included for expedited licensing; inquired if other countries will be considered for expedited licensing aside from those listed in § 126.15(c) and (d); and suggested to update DDTC's Agreement Guidelines to enable the quick identification of licenses subject to expedited processing. The Department notes that all export license applications meeting the requirements of § 126.15(d) are subject to expedited review, not just those in support of AUKUS-related programs. Additionally, licenses that include parties from countries other than those listed in § 126.15(c) and (d) will not benefit from the expedited license processing timelines. Lastly, the Department confirms that Canada was already included in the proposed § 126.15(c) and (d) text as section 1344 of the NDAA for Fiscal Year 2024 applies to applications to export to Australia, the United Kingdom, and Canada.

The same commenter recommended the inclusion of technical data in § 126.15(d) and a stipulation that any license application that is returned or denied must be done so within 14 days of receipt with an explanation for the return or denial, with an opportunity for the applicant to resubmit if the reason

for return or denial can be addressed. The Department declines to accept these suggestions as it is not possible to guarantee that all license applications will be returned or denied within 14 days of receipt because DDTC is not always able to determine within 14 days how a specific license will be adjudicated. The Department is committed to expediting export license applications for Australia, the UK, and Canada to the greatest extent possible and to meeting 30- and 45-day processing timelines for those applications. It is not currently possible to shorten that timeframe to 14 days. Additionally, the Department will not add the term ''technical data'' to this provision as ''technical data'' is already covered by the term ''defense article,'' as defined in § 120.31.

One commenter requested the term ''review'' be replaced with ''approved, returned, or denied'' in § 126.15(d) to ensure final adjudications of a license applications are provided to the applicant within the 45-calendar day timeframe. The Department declines to accept this comment as the proposed text already states ''. . . any review shall be completed no later than 45 calendar days . . . ,'' which is the equivalent of the proposed change.

ITAR § 126.18: Exemptions Regarding Intracompany, Intra-Organization, and Intragovernmental Transfers to Employees Who Are Dual Nationals or Third-Country Nationals

Section 126.18(e)

Three commenters asked if a dual national with Australian citizenship who was born in a § 126.1 country, who holds an Australian security clearance and works for a U.S. or Australian company, can have classified technical data under this exemption. The Department notes if the criteria in § 126.18(e) are met then no additional authorization is required and the dual national can receive classified technical data. Similarly, another commenter requested the U.S. Government provide details regarding multilateral efforts to ensure personnel and facilities' security clearance processes in all three countries can support the final implementation of the proposed exemption. The Department notes this comment is outside the scope of this rulemaking.

Three commenters wanted clarification as to several aspects of the § 126.18(e) exemption: if this exemption is only available for use in relation to the § 126.7 exemption, or if one can just be an authorized user; if § 126.18(e) can be used with existing ITAR agreements that involve classified technical data; if § 126.18(e) can be used for FMS transfers and MOU/Cooperative Armament Programs; if § 126.18(e) can be used by contractors who are not ''regular employees'' as defined in § 120.64; whether one needs approval from a U.S. original equipment manufacturer (OEM) to use the exemption; and if there are provisos in an existing DDTC authorization, whether this exemption supersedes those provisos. The Department notes the § 126.18(e) provision is not just available for use in relation to the § 126.7 exemption and can be used with existing ITAR agreements provided the terms of the provision are met. Further, for clarity, the Department amends § 126.18(e) by replacing ''transfer'' with ''reexport'' and ''retransfer.'' The exemptions within the ITAR are not applicable to FMS cases or MOU/Cooperative Armament Programs (unless the MOU/Cooperative Armament Programs are executed under the authorities of the ITAR). The Department notes the exemption cannot be used by contractors that are not regular employees and suggests reviewing the definition of ''regular employee'' in § 120.64. The Department further notes ITAR exemptions are self-certifying, so no additional approval is needed from a U.S. OEM to utilize this provision of the ITAR; however, this exemption does not supersede any existing provisos placed on authorizations issued by DDTC. To the extent an exporter chooses to rely on a particular export authorization to conduct a transfer, including exemptions, the provisos, conditions, and limitations that were applied to that authorization continue to govern the transfer.

Two commenters wanted confirmation that § 126.18(e) was not limited by the ETL and requested that ''regular employee'' be removed from this provision. The Department declines to accept the comment to remove ''regular employee'' from this provision and notes that § 126.18(e) is not limited by the ETL.

Finally, in light of the comments received about this subsection, the Department made certain clarifying but minor and non-substantive changes to its phrasing and presentation.

Section 126.18(e)(1)

One commenter wanted clarification that ''dual nationals of another country'' in § 126.18(e)(1) includes § 126.1 countries. The Department acknowledges this comment and notes § 126.1(a) is amended by this rule to include § 126.18(e).

One commenter sought clarification regarding whether § 126.18(e)(1) applies to third-country nationals, and if not, what authorization is needed to receive classified defense articles. The Department confirms that this provision only applies to dual nationals and not third-country nationals. There are other provisions within § 126.18 that apply to third-country nationals for transfers of unclassified defense articles; however, to transfer classified technical data to third-country nationals, separate DDTC authorization would be required.

Section 126.18(e)(2)

Two commenters recommended the removal of the criteria of ''regular employees of an authorized user of the exemption in § 126.7'' as the individuals are still required to hold a security clearance under the § 126.18(e) exemption and limiting the criteria to an individual being a regular employee of an authorized user provides no additional assurances for the Department. Similarly, another commenter requested clarification on what constitutes a regular employee. The Department declines to accept the comment to remove ''regular employee'' from § 126.18(e) as previously mentioned and clarifies that ''regular employee'' is defined in § 120.64.

Section 126.18(e)(4)

One commenter asked if UK and Australian militaries can take defense articles transferred under the § 126.18 exemption outside their physical territories while on deployment in other countries. The Department clarifies that this provision is only applicable to dual nationals and one must meet all other criteria in § 126.18(e) before it may be used, but the Department confirms that military members acting in their official capacity can transfer classified defense articles to dual nationals who are citizens of Australia and the United Kingdom. Of note, this provision is only for classified defense articles and not for unclassified defense articles. For either unclassified or classified defense articles, this comment is the subject of a separate rulemaking (87 FR 77046, Dec. 16, 2022) (proposed) and FR Doc. 2024–18249, scheduled to publish on August 15, 2024 (RIN 1400–AF26).

Supplement No. 2 to Part 126—Excluded Technology List

General Comments on the ETL

Several commenters requested that the Department reduce the overall size of the ETL to facilitate AUKUS Pillar II objectives and that the list of exclusions be defined as narrowly as possible,

including limiting the list to those articles required by law or critical to national security and citing the relevant USML entries as specifically as possible. The Department's initial development of the ETL included a detailed review of statutory obligations, coordination with its Australian and UK partners, and coordination across the U.S. Government to ensure exclusion of only those technologies required by statute or otherwise determined to require continued licensing review for national security reasons. The Department, in coordination with the Department of Defense, has now reviewed concerns raised in the public comments regarding the need to update the list of exclusions as described in this rule and has made reductions in the scope of exclusions. The exclusions represent the technologies that require continued—and now expedited—licensing review for statutory or national security reasons.

Two commenters noted that the proposed ETL was in some ways more restrictive than the Canadian exemptions in § 126.5 and recommended that the ETL not be more restrictive than that exemption. The Department, in coordination with the Department of Defense, reviewed the ETL in light of this concern. The Department has removed the entry restricting certain source code. Further, the Department notes that the ETL's exclusion of classified Category XIII(b) articles and classified cryptographic devices is not more restrictive than the Canadian exemptions, which is limited to unclassified articles. The Department declines to remove the other ETL entries highlighted by the commenters because they are based on legal requirements or other policy factors.

One commenter suggested carving out certain DoD programs, such as the F–35 aircraft program, from the exclusions in the ETL because those programs are already subject to significant U.S. Government involvement and oversight. The Department declines to adopt this suggestion, as the license review process is an important mechanism for such oversight and the excluded technologies have been identified as warranting continued license review.

Several commenters requested guidance on how to read the ETL. For example, one commenter asked if technical data and defense services excluded by the ETL row for USML Categories XIV(a), (b), (c)(5), (f)(1), (i), and (m) are limited to technical data and defense services directly related to articles described in the other specified paragraphs. The Department affirms that this row excludes Category XIV(m) technical data and defense services directly related to articles described in paragraph (a), (b), (c)(5), (f)(1), or (i) of Category XIV. It does not affect the availability of the § 126.7 exemption for other Category XIV(m) technical data and defense services, such as those directly related only to articles described in Category XIV(f)(2).

The Department also offers the following example of how to utilize the ETL. This example considers the use of the § 126.7 exemption to export a part that (1) is classified, (2) is described only in USML Category XI(c)(18), (3) is specially designed for a radio described in USML Category XI(a)(5)(iii), (4) does not have anti-tamper features, and (5) does not implement countermeasures or counter-countermeasures. To review the requirement in § 126.7(b)(3) that the part not be identified on the ETL as ineligible for transfer, first review each row of the ETL to determine which entries include USML Category XI(c)(18) in the first column. Second, for each of those entries that include USML Category XI(c)(18) in the first column, determine whether the second column of the entry excludes the part specific article. In this example, only five ETL entries include USML Category XI(c)(18) in the first column. If none of those five ETL entries identifies the part, then this example part is not excluded by the ETL:

- The first three applicable entries don't apply, as the part does not have an ''MT'' designation in paragraph (c)(18), is not an article with anti-tamper features, and is designed for a radio (not a cluster munition).
- The next applicable entry begins with ''XI(a)(5)(iii).'' If the part is specially designed for a classified radio described in USML Category XI(a)(5)(iii), then it is described by the second clause in the second column (''classified articles specially designed [for] classified articles described in USML Category XI(a)(5)(iii)'') and thus is excluded by this entry. In that case, the review stops, as it is excluded by at least one entry on the ETL.
- The last applicable entry, for ''XI(c) and (d),'' would not apply, as the part is specially designed for a radio described in XI(a)(5)(iii)—and is thus not described in the second column of this entry.

One commenter suggested improving the readability of the ETL by including the full names of the USML Categories and the full text of excluded USML entries in the ETL entries. The Department to declines to adopt this suggestion. The Department refers to USML Category numbers and entries in the ETL to keep the text concise and to require fewer updates when USML language may be revised in the future. Furthermore, to assess whether a defense article or defense service is described in a USML entry, it is often necessary to view the USML entry noted in the ETL in the context of other USML entries and applicable notes and definitions. Therefore, the Department declined to fully reproduce USML text in the ETL entries, to simplify interpretation and clearly identify instances wherein the scope of a USML entry and an ETL entry are the same.

Several commenters noted difficulty understanding various terminology used in the ETL. Some terminology referenced by commenters is defined in ITAR part 120 (*e.g.,* ''commodity'' and ''specially designed''). While the ITAR does not define ''directly related,'' this term has been used throughout the USML for decades and is implemented daily by the regulated community. However, the entry excluding certain underwater equipment has been updated to use the term ''specially designed'' instead of ''directly related'' in relation to specially designed articles. Similarly, the entry for USML Category XX(d) has been revised to refer to articles ''used only in,'' rather than ''directly related to,'' classified payloads and classified underwater unmanned vehicle signature reduction techniques. Commenters also recommended that, to improve clarity, the ETL should refer only to specific USML subentries instead of broader categories. For most ETL entries, the Department referenced USML entries and terms defined in the ITAR instead of using novel regulatory language. However, in some entries, it was necessary to use terminology not defined in the ITAR (*e.g.,* ''cluster munitions'') to more narrowly specify an exclusion not coextensive with the related USML entries.

One commenter asserted that using the term ''article'' instead of ''hardware'' or ''defense article'' is ''undefined, unclear, and/or subjective,'' and that doing so unintentionally expands the scope of the ETL. The Department disagrees and retains the term ''article'' as a more concise equivalent for ''defense article'' in this context. Specifically, as only defense articles are described on the USML and the ETL, and all defense articles are articles (by definition), all ETL entries referring to ''articles'' refer to all ''defense articles'' otherwise described by the ETL entry.

A commenter also asked whether it may use the § 126.7 exemption for programs that involve defense articles eligible for the exemption and other defense articles identified on the ETL as ineligible for the exemption. Articles

and services identified on the ETL are not eligible for export under the exemption, regardless of whether they are packaged with eligible articles. Provided that all other conditions of the § 126.7 exemption are met, an exporter may use the exemption for the articles not described on the ETL but must obtain a license or an authorization other than the § 126.7 exemption for articles identified on the ETL.

One commenter asked whether articles in USML Categories XI and XII are excluded from export when packaged as spares or kits for larger assemblies or end items. Unless otherwise specified in the relevant ETL entry (*e.g.,* the anti-tamper entry), the Department confirms excluded articles are ineligible for use of the § 126.7 exemption, irrespective of whether those articles are shipped individually, packaged with other articles, or already incorporated and integrated into a larger assembly. For example, a classified article described in Category XI(b) is ineligible for the exemption, either as a spare or when installed in an aircraft.

Several commenters encouraged the Department to work with its AUKUS partners to implement consistent lists of excluded articles and services. The Department appreciates these comments and anticipates continued efforts by all three nations to harmonize the lists to the extent feasible and consistent with national legislation and notes that there will still be nuanced differences in definitions and regulatory structures between Australia, the United Kingdom, and the United States.

One commenter suggested the creation of a single table of excluded technologies with the applicable categories from the USML and the Australian and United Kingdom munitions lists. The Department acknowledges this comment but declines to adopt this recommendation. Though consistency across the three nations' exclusion lists is desirable, the lists do not perfectly align, and each partner must maintain its own list to account for separate national legal and policy requirements and to remain agile in adapting to revisions to its own national regulations.

Several commenters requested that the Department implement a process to confirm for exporters whether a particular defense article or defense service is identified on the ETL. The Department declines to accept this request, as exporters must conduct a case-by-case review to validate whether all requirements to use an exemption have been satisfied. The Department does not provide exemption validation as exporters are best positioned to make their own determination based on the particular conditions associated with any controlled event, to include exports. The Department notes the advisory opinion process described in § 120.22(c) is available to request an interpretation of the language used in the ETL, but not whether a specific technology is described.

Two commenters suggested renaming the ETL to ''Excluded Defense Article List.'' The Department declines this suggestion and notes the list applies not only to defense articles, but also to defense services, and novice exporters could misinterpret ''defense articles'' as applying only to hardware.

Two commenters requested that the Department publish the rationale for each exclusion in the ETL, which the Department declines to do. Some ETL entries are required by law, while others are based on policy assessments that involve ongoing internal deliberative processes. The Department notes it continues to discuss iterative improvements to the ETL with its interagency and AUKUS partners.

One commenter asked if articles will be removed from the ETL automatically as they are removed from the Wassenaar Arrangement Munitions List or the MTCR Annex. The Department notes the ETL will only be updated by established rulemaking processes. The ETL will remain as specified in supplement no. 2 to part 126 until modified by the Department.

The same commenter requested a 90-day prior notice to removal of items from the ETL to allow industry to secure alternate authorizations (DSP–5, TAA, etc.). The Department declines to do so because removing something from the ETL does not impose additional licensing requirements. Rather, items described in any ETL entry are not eligible for the exemption provided at § 126.7, while items not described in any ETL entry may be transferred without additional licensing provided the other requirements of § 126.7 are met.

The same commenter also asked what criteria are used to determine inclusion or exclusion of items on the ETL. The Department declines to provide specific criteria, noting that some ETL entries are required by law, while others are based on policy assessments that consider a variety of factors.

Missile Technology Control Regime

Several commenters noted the Department of Commerce does not require a license for many exports of MTCR-controlled articles to Australia and the United Kingdom. In contrast, most MT-designated articles on the USML continue to require a license. The Department notes there is no requirement for the Departments of State and Commerce to perfectly align their licensing requirements, as the agencies derive their authorities and mandates from separate sources and regulate technologies of differing importance to U.S. national security and foreign policy interests.

Several commenters noted that the MTCR entry on the ETL is broader than required by law, with one recommending the Department use the language from the MTCR and AECA instead. The Department declines to rely on the regulated community to interpret elements of the AECA and MTCR, including the term ''for use in rocket systems.'' The Department has not included USML entries with an ''MT'' designation in the MTCR entry on the ETL when the USML entry (1) does not include MTCR Category I commodities and (2) does not include MTCR Category II commodities for use in rockets. USML Category XIX is an example from the proposed rule. In this interim final rule, the Department also removes the ETL exclusion for MT-designated articles described in paragraph (h)(12) of Category VIII, as the defense articles described therein are demonstrably for use in UAVs, not rockets (flight control systems for rockets are described in paragraph (h)(1) of Category IV and remain excluded). The Department appreciates the intent of these comments and is reviewing other ways to facilitate collaboration on MTCR technologies among and between Australia, the United Kingdom, and the United States.

Similarly, two commenters observed the MTCR entry on the USML treats USML Category IV propulsion differently than Category XIX, asserting technologies excluded from one category but not the other will introduce conflicts and recommending removal of Category IV propulsion from the ETL. Another commenter asked why MT-designated articles in Category XIX are not excluded. The Department notes this was intentional, as engines described in USML Category XIX are generally not for use in rocket systems (including ballistic missiles, space launch vehicles, and sounding rockets, while excluding cruise missiles, target drones, and reconnaissance drones), and therefore are not excluded. Engines described in USML Category IV with an MT designation are excluded from eligibility due to their use in rocket systems.

One commenter recommended the Department ''declare a general policy exception for MT cooperation'' with

Australia and the United Kingdom, and another suggested clearing specific programs that involve the transfer of MT-designated defense articles. The Department acknowledges these comments; however, policies of this nature are outside the scope of this rulemaking.

One commenter asserted the distinction between hypersonic kinetic energy weapons and MT-designated defense articles is unclear and requested clarification that hypersonic systems are not excluded from the § 126.7 exemption. The Department declines this request as beyond the scope of the current rulemaking. The ETL specifies excluded technologies based upon their USML categories, and a case-by-case review is necessary to assess whether, and in which USML paragraph(s), any particular hypersonic system is described on the USML. Multiple USML paragraphs may describe a given commodity, and the commodity jurisdiction process described in § 120.12 is available for resolving doubt with regard to the jurisdiction and classification of a particular defense article or defense service.

One commenter suggested limiting the MTCR exclusion to classified articles or creating a separate exemption for MTCR commodities. The Department declines to limit the MTCR exclusion to classified articles, as the underlying reasons for the ETL exclusion, including 22 U.S.C. 2778(j)(1)(C)(ii)(I) through (III), are not limited to classified articles. A separate exemption for MTCR commodities is outside the scope of this rulemaking.

Anti-Tamper

Several commenters asked the Department to define ''anti-tamper'' and ''readily identifiable'' as used in the anti-tamper exclusion. Following consultations with DoD, the Department has clarified the exclusion, which is intended to apply to articles developed in accordance with a DoD Program Protection Plan. Companies that implement anti-tamper methodologies to protect DoD Critical Program Information are well versed in this area. The Department has also deleted the term ''readily identifiable'' from the entry. The Department confirms that the anti-tamper exclusion does not apply to commodities protected by incorporated anti-tamper mechanisms but not otherwise listed on the ETL. For these reasons, the Department declines to define ''anti-tamper.''

One commenter asked where anti-tamper articles are described on the USML. Such articles may be described in multiple USML entries, depending upon their characteristics and functions, and commonly in catch-all controls. The exclusion applies to all anti-tamper articles described on the ETL, regardless of which USML entry describes them.

Source Code

Five commenters requested removal, limitation, or clarification of the ETL entry that excluded certain source code. Commenters noted the necessity of source code for co-development and integration efforts, and they noted certain inconsistencies with the Canadian exemption. The Department accepts these comments and, after interagency consultation, deletes that entry from the ETL, as well as the entry that excluded source code pertaining to certain night vision commodities in USML Category XII.

Manufacturing Know-How

Commenters recommended removing the exclusion of certain manufacturing know-how in USML Categories II(k), III(e), IV(i), X(e), and XIX(g), particularly with regard to hypersonic weapons capabilities and kinetic energy weapons. The Department concurs that some manufacturing know-how is critical to the success of AUKUS Pillar II objectives concerning hypersonics. However, the specific technologies excluded by the ETL have been identified, following consultations with DoD, as warranting continued licensing review.

One commenter asserted that the exclusion of USML Category XIX manufacturing know-how is overly restrictive. The Department disagrees with the commenter's assessment that manufacturing know-how for Category XIX engines is ''relatively low-level technology.'' Following consultations with the Department of Defense, the Department of State confirms that the technology in question continues to require exclusion from the exemption for national security reasons and the Department declines to modify the exclusion of manufacturing know-how for Category XIX articles.

Several commenters requested the Department remove the exclusion of classified manufacturing know-how for articles described in USML Categories XI(a)(3) or (4), or XII(d). Commenters asserted these exclusions would impede AUKUS goals with regard to electronic warfare (EW) and other collaborative efforts such as position, navigation, and timing (PNT) capabilities. The Department has removed this exclusion, while noting the remaining ETL entries (such as the MTCR exclusion and the exclusion pertaining to Category XI) may continue to restrict use of the exemption for some of these systems.

USML Category II

Four commenters requested clarification or removal of the ETL entry for USML Category II(j)(9) through (11) and (k). The Department clarifies that this ETL entry exists to ensure that articles described in Category II(j)(9) through (11), and directly related technical data and defense services, are not transferred under the § 126.7 exemption unless they are elements of armaments, weapons, or military platforms. This ETL entry does not affect the use of the § 126.7 exemption for articles designed for integration into, or incorporated as elements of, platforms such as military aircraft, or technical data and defense services directly related to such articles.

One commenter requested clarification for USML Category II(j) and referred to ''difficulties carving out items in [USML Categories] XI and XII.'' The Department cannot respond because it does not understand this comment.

USML Category IV

Multiple commenters requested the Department further limit the ETL scope when able. Consistent with that request, the Department further revised one ETL entry to continue to exclude launchers for MANPADS described in USML Category IV(b)(2), while removing the exclusion of other articles described in Category IV(b)(2).

Naval Nuclear Propulsion

One commenter objected to the ETL excluding articles described in USML Category VI(e) or (f)(5) and Category XX, asserting that excluding support for nuclear propulsion may be ''counter to the whole purpose of AUKUS.'' The Department disagrees and notes naval nuclear propulsion capabilities must be transferred pursuant to a mutual defense agreement such as the one required for AUKUS Pillar I. Such agreements are described in sections 91(c), 123, and 144(c) of the Atomic Energy Act of 1954 (AEA) (42 U.S.C. 2121(c), 2153, 2143(c)), as well as section 1352(d)(3) of the 2024 NDAA (22 U.S.C. 10431(d)(3)).

One commenter suggested the establishment of a new Naval Nuclear Propulsion Plant Information (NNPI) agreement between the United States, Australia, and the United Kingdom. Another commenter proposed a secure data management program to enable the safe and secure sharing of submarine data, including NNPI and Alternate and Compensatory Control Measures (ACCM). The Department acknowledges

these comments; however, they are outside the scope of the rulemaking.

One commenter opined that the ''boundaries'' defining naval nuclear propulsion items require further clarification because such items may be interconnected with the overall operation and maintenance of military vessels. The Department declines to further define such boundaries, as the ETL entry excluding naval nuclear propulsion items clearly identifies specific USML entries and uses established ITAR terms. If doubt exists as to the export classification of an item, the Commodity Jurisdiction process at § 120.12 is available.

USML Category VIII

One commenter incorrectly asserted that the ETL does not exclude articles for the F–22 aircraft, such as the mission computer and engine, which are described in USML entries other than paragraphs (a)(2), (h)(1), and (i) of USML Category VIII, because they are described in other USML paragraphs. The Order of Review in § 120.11 identifies that an item may be described in multiple entries. Paragraph (h)(1) of Category VIII describes parts, components, accessories, and attachments specially designed for the F–22 aircraft, subject to the Note to that paragraph, irrespective of whether those articles are also described in other USML entries. As such, the Department rejects the comment and resulting recommendation to exclude further F–22 parts described elsewhere on the USML, as a redundancy.

USML Categories XI and XIII(b)

Several commenters observed that the previously proposed ETL entry for USML Categories XI(a) through (d); and XIII(b) and (l) appeared to exclude technical data and defense services only if they are directly related to naval acoustic spectrum control and awareness and asked the Department to revise the entry to clarify its intent. Having consulted with DoD, the Department clarifies the intent was to exclude all technical data and defense services directly related to unclassified articles excluded in this ETL entry and to exclude only classified technical data and defense services directly related to classified articles excluded in this entry.

Two commenters recommended separating USML Category XIII(b) and (l) onto a separate row from Category XI or placing them with other Category XIII exclusions. The Department accepts this comment. This entry has been split into multiple rows to address different exclusions and to more clearly specify the relevant USML entries.

Many commenters advocated clarifying, eliminating, or narrowing the scope of the exclusion for articles directly related to naval acoustic spectrum control and awareness. One commenter asked whether this phrase describes all of USML Category XI(a)(1)(i). Two commenters suggested limiting the exclusion to classified articles. Another proposed removing the phrase ''and awareness.'' Following consultations with DoD, the Department declines to narrow the scope of this exclusion, as these articles continue to require (now expedited) case-by-case review for export. The Department has modified this entry to clarify the exclusion applies to all articles described in USML Category XI(a)(1)(i) and (ii), specially designed articles therefor, and directly related technical data and defense services.

Several commenters requested clarification as to whether the exclusion of classified countermeasures and counter-countermeasures in USML Category XI applies to unclassified hardware designed for a classified system. They noted that in some cases, the only classified element of the system is software provided on a government-to-government basis and installed onto the hardware after export. Furthermore, one commenter requested the Department review whether the exclusion would prevent collaboration on aspects of a defense article not related to the classified portions of the defense article. Another commenter asserted that § 120.11(c) should not apply to excluded defense articles—specifically, that end items incorporating classified countermeasures or counter-countermeasures should be eligible for export. Yet another commenter requested clarification as to which USML entries describe the specially designed parts, components, accessories, and attachments excluded under this entry. And one commenter expressed confusion on how to interpret the term ''classified.''

The Department has revised the proposed countermeasures and counter-countermeasures exclusion both for greater clarity and to focus the exclusion more precisely on relevant, classified defense articles. Such revisions include distributing the contents of the proposed entry across multiple narrower entries, more clearly identifying the relevant USML entries, and removing unclassified articles designed for classified articles. Classified, directly related technical data and defense services are also excluded. Articles excluded from the exemption at § 126.7 remain excluded even when incorporated into an article that is not otherwise excluded. The Department also confirms that an exclusion of classified articles and classified, directly related technical data and defense services, does not prevent use of the exemption to transfer unclassified articles used in the classified article, or unclassified technical data and defense services. The Department further notes the term ''classified'' is defined within the ITAR in § 120.38.

One commenter requested removal of USML Category XIII(b) cryptographic devices, software, and components from the ETL, asserting they are authorized for transfer under the Canadian exemptions in § 126.5. The Department notes that the Canadian exemptions are distinct from the § 126.7 exemption. Nonetheless, the classified articles described in Category XIII(b) previously proposed for exclusion are today excluded from the § 126.5 Canadian exemptions, as it is limited to the transfer of unclassified articles.

One commenter objected to the exclusion of classified articles described in USML Category XIII(b), asserting it will prevent the use of the exemption for UK, Australian, North Atlantic Treaty Organization (NATO), and other allied classified cryptography that is not used to access U.S. Top Secret or Sensitive Compartmented Information (SCI) information, some of which is provided by the U.S. Defense Industrial base. Following consultation with DoD, including the National Security Agency, the Department declines to limit this entry. Classified cryptography, even that which is shared with U.S. allies, must remain subject to significant oversight and distribution limits, including that which is provided by the (now expedited) licensing process.

Many commenters observed the proposed rule excluded classified articles described in USML Category XIII(b), but excluded all articles specially designed for a Category XIII(b) article, regardless of classification status. Commenters were uncertain how to interpret this exclusion and asked whether the Department intended to exclude only classified articles, and which USML paragraphs describe the specially designed articles that are excluded. The Department recognizes the requested clarifications of this entry. Following consultations with DoD, the Department revises the scope consistent with the intent to exclude (1) classified articles described in USML Category XIII(b), (2) classified articles in USML Category XI specially designed for the excluded Category XIII(b) articles and

(3) classified, directly related technical data and defense services.

In a section of its comment devoted to the ETL, one commenter advocated for ''more harmonization on cryptographic technology.'' The Department assesses any actionable response to this comment falls outside the scope of the proposed rule.

One commenter requested confirmation that the Department is not asserting jurisdiction over articles not described on the USML. As an example, the commenter noted the use of the phrase ''specially designed parts, components, accessories, and attachments therefor'' in the ETL entry that excludes classified countermeasures and counter-countermeasures, incorrectly asserting there is no catch-all entry on the USML for such items. The Department confirms it does not assert regulatory jurisdiction via the ETL, which only identifies the articles and services already under the Department's jurisdiction that are excluded from transfer via the § 126.7 exemption. The Department notes the proposed exclusion, which would have applied to paragraphs (a) through (d) of USML Category XI, in addition to paragraphs (b) and (l) of USML Category XIII, would have applied to articles described in USML Category XI(c)(1) through (19) that are specially designed for classified countermeasures or counter-countermeasures.

USML Category XII

One commenter requested narrowing of the exclusion for source code and classified technical data and defense services pertaining to night vision-related items. After further review and consultation with DoD, the Department removed this exclusion.

Also, consistent with commenters' requests to narrow the ETL, the Department has, after consultation with DoD, removed the exclusion for classified articles described in Category XII(d)(3).

USML Category XV

Two commenters welcomed the ability to transfer unclassified Category XV(f) technical data and defense services under the exemption because such transfers will facilitate initial unclassified discussions related to the bid phase for novel space-based power generation systems. They and three other commenters requested complete or partial removal of the ETL entry excluding classified articles described in Category XV(a) or (e); and directly related classified technical data and defense services. Based on interagency consultations, the Department declines to do so. Such articles necessitate a case-by-case review prior to export, which is inherent in the licensing process.

One commenter requested that the Department confirm that information collected by excluded defense articles in USML Category XV is not subject to the ITAR, or that such information falls within the scope of the § 126.7 exemption. The Department declines this request as a case-by-case review is necessary to assess whether such information is described on the USML or the ETL. The requested carve-outs are overly broad and not actionable within this rulemaking. The Department notes that just because information was ''collected by a defense article'' does not make that information ''directly related to the defense article that collected it''; and most ETL entries exclude information only as technical data directly related to excluded defense articles.

One commenter requested removal of ''cooperative docking'' capability from the list of technologies described in USML Category XV. The Department notes that this comment is outside the scope of this rulemaking, as the rule does not contemplate changes to the USML.

USML Category XVI

One commenter requested the Department specify the relevant paragraphs within USML Category XVI that are excluded; the Department confirms all articles described in USML Category XVI are excluded, and thus declines to specify each paragraph individually.

USML Category XVIII

One commenter requested removal of the ETL entry that excludes classified articles in Category XVIII specially designed for counter-space operations, asserting this would improve the relationship between the three countries' Space Commands and facilitate collaboration between their industrial bases. The Department, based on U.S. Government review, declines to remove this entry at this time, as the excluded technologies warrant continued, and now expedited, case-by-case review for national security concerns.

USML Category XIX

One commenter noted that it would be unable to take advantage of the proposed exemption for exports related to classified parts for use in the engine for the F–35 aircraft. The Department confirms this, based on the description of those parts in an excluded entry.

One commenter suggested that paragraphs (f)(6) and (7) of USML Category XIX should be added to the exclusion for classified articles described in paragraphs (e) and (f)(1) and (2) of USML Category XIX, as those paragraphs describe production commodities directly related to the technologies excluded by the existing Category XIX entry. The Department appreciates this comment and notes that excluding the articles described in paragraphs (f)(7) and (12) for manufacturing the excluded articles is consistent with the Department's intent to exclude articles not yet integrated and their technical data. Following consultations with DoD, the Department declines to add defense articles described in paragraph (f)(6), as the Category XIX classified defense articles warranting exclusion are already described in the ETL entry. Thus, following consultations with DoD, State is excluding the articles described in paragraphs (f)(7) and (12) for manufacturing the excluded articles in paragraphs (f)(1) and (2).

USML Category XX

Multiple commenters recommended the Department eliminate or narrow the exclusions in USML Category XX. Commenters noted that exchange of Category XX articles, including manufacturing know-how, will be necessary to support AUKUS Pillar I, which is intended to enable Australia to safely and effectively operate nuclear-powered submarines and establish a corresponding manufacturing industrial base in Australia. One commenter noted that the exclusion of certain Category XX manufacturing know-how is not required by AECA and asserted that exclusions of articles not otherwise restricted by law or other international obligations is contrary to the premise that Australia and the UK have comparable systems with the United States. Commenters specifically cited the need for transfer of information regarding processes necessary to meet materials specifications, instruction with regard to test and commissioning software, and design models that may contain manufacturing know-how. One commenter recommended eliminating the exclusion for manufacturing know-how pertaining to classified UUV signature reduction techniques or making the exclusion specific to current U.S.-fielded technologies in programs of record. One commenter also estimated that, without an exclusion for manufacturing know-how, approximately 200 manufacturing

license agreements would be necessary to support the anticipated transfers of submersible manufacturing capabilities. Another commenter suggested restricting the exclusions in Category XX to classified technologies.

The Department affirms the articles and services described in USML Category XX(d) are critical to the success of AUKUS Pillar I and further notes this exemption is not the only means of facilitating the safe and effective operation or manufacture of nuclear-powered submarines. The specific technologies excluded by the ETL have been identified as warranting continued (and now expedited) licensing review. Having consulted with DoD, the Department further amends the USML Category XX(d) entry to (1) remove manufacturing know-how directly related to uncrewed vessels, (2) clarify the entry, and (3) further exclude design methodology and engineering analysis directly related to certain USML Category XX commodities for the same reasons manufacturing know-how is excluded for those commodities.

One commenter requested clarification whether manufacturing know-how is excluded if it pertains to a USML Category XX(c) defense article used in both crewed vessels and classified UUVs. The Department has revised the manufacturing know-how entry for Category XX, which no longer specifically excludes all manufacturing know-how for classified UUVs. Manufacturing know-how directly related to crewed vessels remain excluded. For Category XX(c) defense articles used both in crewed and uncrewed vessels, exporters must assess whether the information under consideration is directly related to crewed vessels and is therefore excluded. The Department further notes that technical data directly related to a Category XX(c) commodity may be excluded by other ETL entries. For example, other ETL entries exclude technical data directly related to Category XX(c) articles specially designed for articles in Categories XX(b)(1) and (2).

Other Public Comments

Several commenters cautioned against finalizing a § 126.7 exemption that hampers collaboration and innovation for technological development in support of future AUKUS programs. The Department notes that the exemption was developed by the U.S. Government cognizant of the goals of AUKUS and the exemption was designed to support these goals while maintaining individual licensing requirements for the most sensitive items subject to the ITAR.

Multiple commenters argued that, because section 38(l) of the AECA (22 U.S.C. 2778(l)) requires all three nations to have ''comparable'' export control systems, an exporter should not need U.S. authorization to retransfer or reexport defense articles previously exported via the § 126.7 exemption outside of the authorized user community or outside of the three AUKUS nations. Instead, these commenters recommended a license or other authorization from Australia or the United Kingdom from which the defense article is to be retransferred or reexported should suffice. DDTC declines to accept this recommendation. The § 126.7 exemption does not authorize the reexport or retransfer of defense articles outside its scope for several reasons. The Department was provided legal authority under section 38(l) of the AECA to implement such license-free defense trade for Australia and the United Kingdom and only under certain conditions. Having comparable export controls ensures that all three nations are using similar systems to protect technologies within their territory from being transferred illicitly. However, government decisions to authorize the export of defense articles implicate a range of national security and foreign policy interests of a nation.

Multiple commenters also requested the Department eliminate the effect of § 120.11(c) (commonly referred to as the ''see-through rule'') for transactions that take place under the proposed § 126.7 exemption or the proposed § 126.15 expedited licensing process, to simplify export compliance for Australian and UK exporters. The Department declines this request, for the same reasons it requires entities to obtain a license or other authorization for retransfers or reexports outside the authorized user community. The underlying reasons for ITAR regulation of defense articles do not change following incorporation or integration into another item, unless specifically provided otherwise in the ITAR (*e.g.,* see USML Category XV, Note 2 to paragraph (e)).

Several commenters requested clarification that § 124.8(a)(5) does not apply to the proposed exemption. ITAR § 124.8(a)(5) requires certain agreements to include a clause specifying that technical data or defense services exported from the United States in furtherance of the agreement, and any defense article which may be produced or manufactured therefrom, may not be transferred to a foreign person except pursuant to § 126.18, as specifically authorized in the agreement, or where prior written approval of the Department of State has been obtained. While § 124.8(a)(5) does not apply, the Department notes that a similar provision is included in the authorized user process. Use of the § 126.7 exemption does not eliminate the equities underlying § 124.8(a)(5) regarding transfers outside of Australia, the United Kingdom, or the United States. Moreover, maintaining this regulatory provision is key to ensuring know-how transferred under the exemption is not repurposed for use in defense articles not described in Australia and the UK's munitions lists. Without this provision, AECA section 38(j)(1)(C)(ii)(VI) and (VII) would require the Department to substantially expand the ETL to prevent unlicensed exports of U.S. technological capabilities outside of the United Kingdom and Australia. However, to further facilitate trade within the approved user community, and for clarity, the Department is amending § 124.8(a)(5) to affirm the exemption at § 126.7 may be used to retransfer and reexport articles and services within the authorized user community that were originally exported via an agreement subject to § 124.8(a)(5).

One commenter inquired when the Department plans to certify that Australia and the United Kingdom have comparable export controls. The Department notes that such a certification must occur prior to the effective date of this final rule implementing the exemption.

One commenter supported the passing of the Australian Defence Trade Controls Amendment Act 2024; however, expressed concern that the law will increase compliance requirements for Australian industry. The Department notes that this comment is outside the scope of this rulemaking regarding the ITAR exemption that the United States Government proposed.

One commenter requested clarification as to whether the term ''export'' in the proposed rule refers to both permanent and temporary exports. The Department clarifies that, consistent with how the term ''export'' is used elsewhere in the ITAR, unless otherwise specified, the term ''export'' refers to both permanent and temporary exports.

One commenter sought clarification as to whether the § 126.7 exemption would supersede an existing license or other authorizations already issued by DDTC, and if provisos in an existing license or other authorization include tighter restrictions than the § 126.7 exemption, which authorization should

the exporter refer to. Another commenter suggested the Department clarify that provisos in an existing authorization no longer apply if the § 126.7 exemption is available for use. Similarly, two commenters inquired if there is a transition period for existing license or other authorizations to using the § 126.7 exemption. The Department notes that use of the § 126.7 exemption in lieu of an existing license or other authorization is allowed effective immediately upon the effective date of this interim final rule provided all exemption criteria are met, consistent with the application of other ITAR exemptions. There is no transition period required for this exemption. The Department notes ITAR exemptions do not automatically invalidate previously authorized licenses or agreements. For example, to the extent an exporter chooses to rely on a particular authorization to export, the provisos, conditions, and limitations that were applied to that authorization continue to govern the authorization.

One commenter sought clarification if this exemption could be used for a defense article originally shipped via FMS and what the requirements were for continued transfers. The Department confirms that the ITAR authorizes commercial exports of defense articles and defense services, also known as direct commercial sales or DCS. Defense articles transferred via government-to-government channels such as FMS are conducted pursuant to separate and distinct authorities. Those separate authorities continue to govern the export, reexport, and retransfer of those defense articles. This means that defense articles originally exported pursuant to an FMS case continue to be subject to the terms and conditions of the FMS Letter of Offer and Acceptance and are not eligible for retransfer or reexport under § 126.17 or any other provision of the ITAR.

One commenter sought clarification on the proposed rule's impact on the existing United Kingdom and Australian DTCTs and if this rule will replace or alter §§ 126.16 and 126.17. The Department notes that the existing United Kingdom and Australian DTCTs will not be altered. The § 126.7 exemption is new and a separate exemption.

One commenter expressed concern about arms transfers and money laundering. The Department notes that this comment is outside the scope of this rulemaking.

One commenter expressed that all defense trade and cooperation should exclude Israel. The Department notes the § 126.7 exemption is solely for Australia, the United Kingdom, and the United States and that the comment is otherwise outside the scope of this rulemaking.

Two commenters recommended the Department waive agreement signatures and nondisclosure agreements (NDA) for authorized users who are a party to ITAR agreements which are for end-use by AUKUS governments and include non-AUKUS parties and suggested that the NDA requirement be included in the authorized user enrollment process to mitigate administrative hurdles. Similarly, one commenter recommended the same waivers but for end-use by AUKUS governments, authorization to export defense articles on the ETL, and only include authorized users. The commenter acknowledges that the latter recommendation requires a license but asserts that without these waivers it is burdensome and does not support AUKUS objectives. The Department notes that these recommendations exceed the scope of the proposed rulemaking insofar as it recommends changing requirements that apply to transfers that are not described within the § 126.7 exemption being proposed or the expedited processing timelines that would apply under § 126.15. The Department also does not agree with the commenter's suggestion that signatures on approved agreements are ''administrative hurdles.'' A party's signature to an agreement is an acknowledgement that the party has been made aware of and agrees to comply with the terms and conditions of the specific agreement to which the party has affixed its signature. Further, exports of defense articles on the ETL especially, these specific assurances are an important measure designed to help ensure that all parties to the transaction, including authorized user understand their specific obligations.

Similarly, another commenter suggested to remove the NDA requirement for sublicensees when transfers are on the ETL and require licensing. The Department notes that these recommendations exceed the scope of the proposed rulemaking.

One commenter noted classified and FMS are not captured in the § 126.7 exemption and recommended the Department consider harmonizing licensing pathways for users of the exemption. The Department acknowledges this comment; however, classified is not prohibited in the § 126.7 exemption provided all criteria in that section are met, and regarding different licensing pathways, the ITAR does not regulate FMS. The Department acknowledges that continued efforts to streamline and facilitate defense trade generally and may consider this comment within other efforts.

Two commenters recommended to create an exception similar to § 120.54(a)(3) for authorized users. While this is outside the scope of this particular rulemaking, the Department may consider it in a future rulemaking.

Two commenters acknowledged this is outside the realm of export controls but recommended all three nationals have harmonized cyber security standards. The Department notes that this comment is outside the scope of this rulemaking.

The same commenter inquired how controlled unclassified information (CUI) will be handled with AUKUS, what upcoming AUKUS-related streamlining of the FMS system are being considered and requested the creation of a non-U.S. Defense Trade Advisory Group (DTAG). The Department notes that this comment is outside the scope of this rulemaking, however there are several mechanisms for foreign industry to provide comments to the U.S. Government on defense trade matters, including through their governments. These comments were passed to the U.S. Government entities overseeing CUI and FMS processes.

One commenter expressed that efforts to expedite transfers to NTIB (National Technology and Industrial Base) partners is still important. The Department notes that this comment is outside the scope of this rulemaking.

One commenter suggested to amend § 123.9(c)(4) to include the proposed § 126.7 exemption to reflect Australian and UK authorized users are allowed to submitted retransfer authorizations. The Department declines to accept this comment as the § 123.9(c)(4) provision imposes conditions on reexports and retransfers of defense articles originally exported pursuant to the Defense Trade Cooperation Treaties in §§ 126.16 and 126.17, which impose unique requirements, including on reexports and retransfers.

One commenter suggested DDTC work with the Office of Regional Security and Arms Transfers (RSAT), the Defense Security Cooperation Agency (DCSA), and other government entities to inform the public about changes to DCS and FMS processes within the AUKUS framework, including activities done through FMS channels which can transition to be handled through the § 126.7 exemption. The Department reemphasizes that the ITAR regulates DCS only and ITAR exemptions cannot be used for FMS transfers. However, the Department

recognizes the need for continued outreach and education on defense trade process more generally and will aim to coordinate outreach between the DCS and FMS communities.

One commenter applauded the Department of State and the Department of Commerce for aligning its export controls, in particular the inclusion of the AUKUS exemption and conforming authorizations in the Export Administration Regulations (EAR). The commenter further suggested both agencies consider revising the treatment of nationality to ensure that national security concerns and risks relating to dual- and third-country nationals are consistent across the ITAR and the EAR, particularly with respect to technology transfers and ''deemed exports.'' The Department notes that the Department of State and Department of Commerce have different authorities for export controls and thus the ITAR and EAR have different scopes of technology, with the ITAR controlling more sensitive defense articles and defense services. As such, the ITAR control may be more stringent than those implemented by the EAR.

One commenter proposed to have a series of tabletop exercises with the governments of Australia, the United Kingdom, and the United States to better streamline policies or regulations, conduct gap analyses, and support harmonization prior to the finalization of this rule. The Department notes it continues to coordinate with the United Kingdom and Australia on this rulemaking and the reciprocal exemptions being created by the United Kingdom and Australia.

One commenter wanted clarification if the requirements set out in § 126.18(a), (b), and (c)(2) apply to § 126.7. The Department notes that those provisions are separate and do not apply to § 126.7 but are still available for use if all the criteria are met. Moreover, the Department notes that these provisions are for dual and third-country nationals.

One commenter recommended Canada be included in §§ 126.7 and 126.18(e). The Department notes its focus on implementing the requirements set forth in section 38(l) of the AECA, which are specific to Australia and the United Kingdom.

One commenter suggested the Department align subject matter experts to specific AUKUS pillars, each country would have an administrator that manages those pillars, and the administrator is responsible for vetting entities as authorized users. The Department notes that this comment is outside the scope of the rulemaking in terms of how future AUKUS programs will be structured and which countries will collaborate on those projects or programs.

One commenter recommended that DoD and the intelligence community conduct a comprehensive review of classification policy to ensure defense articles are not routinely marked with classifications that limit sharing with Australian and UK partners. The Department notes this comment is outside the scope of this rulemaking.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking is exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as a military or foreign affairs function of the United States Government. Good cause also exists under 5 U.S.C. 553(b)(B) and (d)(3) to issue this final rule with an immediate effective date, as 22 U.S.C. 2778(l)(2) requires that this rule implementing an exemption be immediately issued upon an assessment of comparability. The Department believes that the statutory directive is a result of congressional intent and recognition that the foreign affairs function exception to the requirements of 5 U.S.C. 553 apply to ITAR rules. *E.g.,* 22 CFR 120.20. Moreover, since Australia and the United Kingdom have implemented a comparable exemption from their export control requirements for the United States in furtherance of the trilateral trade concept envisioned by statute, and have made changes and commitments regarding their own laws and processes, good cause exists to quickly issue a final rule, have certain limitations to the exemption based on security and shared objectives, ensure it goes into effect on or near a certain coordinated date, and otherwise facilitate the enhanced trilateral partnership envisioned by AUKUS.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553 as a military or foreign affairs function, and based on the Department's finding of good cause, the rule does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

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

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866, 14094 and 13563

Executive Order 12866, as amended by Executive Order 14094, and Executive Order 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Because the scope of this rule does not impose additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. Regarding the exemption, Australia and the United Kingdom, as set forth in the section 655 reports required annually by the Foreign Assistance Act of 1961, as amended, are ordinarily among the most commonly licensed destinations for transfers subject to the ITAR. The Department expects that fewer license applications will be submitted as a result of this rule for authorized users that meet the criteria of the exemption, for eligible transfers of defense articles and defense services to and between Australia, the United Kingdom, and the United States. Consequently, this exemption will relieve licensing burdens for some exporters. Regarding the expedited licensing review process when an ITAR exemption is not available for use, the Department expects minimal costs associated with this provision for the

public, with the benefit of license applications involving Australia, the United Kingdom, or Canada being subject to faster adjudication. The Department is seeking public comment on its assessment of the costs and benefits of this interim final rule. This rule has been designated as a significant regulatory action by the Office and Information and Regulatory Affairs under Executive Order 12866.

Executive Order 12988

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

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Parts 123, 124, and 126

Arms and munitions, Exports, Reporting and recordkeeping requirements, Technical assistance.

For the reasons set forth above, title 22, chapter I, subchapter M, parts 123, 124, and 126 of the Code of Federal Regulations are amended as follows:

PART 123—LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

■ 1. The authority citation for part 123 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261, 112 Stat. 1920; Sec. 1205(a), Pub. L. 107–228; Sec. 520, Pub. L. 112–55; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Amend § 123.10 by revising the section heading and paragraph (a) to read as follows:

§ 123.10 Nontransfer and use assurances.

(a) A nontransfer and use certificate (*i.e.,* Form DSP–83) is required for the export of significant military equipment and classified articles, including classified technical data, pursuant to a license or other authorization, except for the exemptions in §§ 126.5 and 126.7 of this subchapter. A license will not be issued until a completed Form DSP–83 has been received by the Directorate of Defense Trade Controls. This form is to be executed by the foreign consignee, foreign end-user, and the applicant. The certificate stipulates that, except as specifically authorized by prior written approval of the Department of State, the foreign consignee and foreign end-user will not reexport, resell, or otherwise dispose of the significant military equipment enumerated in the application outside the country named as the location of the foreign end-use or to any other person.

* * * * *

PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT, AND OTHER DEFENSE SERVICES

■ 3. The authority citation for part 124 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; 22 U.S.C. 2776; Section 1514, Pub. L. 105–261; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 4. Amend § 124.8 by revising paragraph (a) to read as follows:

§ 124.8 Clauses required both in manufacturing license agreements and technical assistance agreements.

(a) * * *

(5) ''The technical data or defense service exported from the United States in furtherance of this agreement and any defense article which may be produced or manufactured from such technical data or defense service may not be transferred to a foreign person except pursuant to 22 CFR 126.7 or 126.18, as specifically authorized in this agreement, or where prior written approval of the Department of State has been obtained.''

* * * * *

PART 126—GENERAL POLICIES AND PROVISIONS

■ 5. The authority citation for part 126 is revised to read as follows:

Authority: 22 U.S.C. 287c, 2651a, 2752, 2753, 2776, 2778, 2779, 2779a, 2780, 2791, 2797, 10423; sec. 1225, Pub. L. 108–375, 118 Stat. 2091; sec. 7045, Pub. L. 112–74, 125 Stat. 1232; sec. 1250A, Pub. L 116–92, 133 Stat. 1665; sec. 205, Pub. L. 116–94, 133 Stat. 3052; and E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

■ 6. Amend § 126.1 by revising paragraph (a) to read as follows:

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. The exemptions provided in this subchapter, except § 123.17 of this subchapter and §§ 126.4(a)(1) or (3) and (b)(1) (paragraph (a)(2) or (b)(2) when the export is destined for Russia and in support of government space cooperation), 126.6, and 126.18(e), or when the recipient is a U.S. Government department or agency, do not apply with respect to defense articles or defense services originating in or for export to any proscribed countries, areas, or persons. (See § 129.7 of this subchapter, which imposes restrictions on brokering activities similar to those in this section.)

* * * * *

■ 7. Add § 126.7 to read as follows:

§ 126.7 Exemption for defense trade and cooperation among Australia, the United Kingdom, and the United States.

(a) No license or other approval is required for the export, reexport, retransfer, or temporary import of defense articles, the performance of defense services, or engaging in brokering activities as described in part 129 of this subchapter, between or among authorized users of this exemption, subject to the requirements and limitations in paragraph (b) of this section.

(b) The exemption described in paragraph (a) of this section is subject to the following requirements and limitations:

(1) The activity must be to or within the physical territory of Australia, the United Kingdom, or the United States;

(2) The transferor, recipient, or broker must each be:

(i) U.S. persons registered with the applicable Directorate of Defense Trade Controls (DDTC) registration pursuant to §§ 122.1 and 129.3 of this subchapter, and not debarred under § 127.7 of this subchapter;

(ii) A U.S. Government department or agency; or

(iii) Authorized users identified through the DDTC website and, if engaging in brokering activities, registered with DDTC pursuant to § 129.3 of this subchapter;

(3) The defense article or defense service is not identified in supplement no. 2 to this part as ineligible for transfer under the exemption in paragraph (a) of this section;

(4) The value of the transfer does not exceed the amounts described in § 123.15 of this subchapter and does not involve the manufacturing abroad of significant military equipment as

described in § 124.11 of this subchapter; and

(5) Transferors must comply with the requirements of § 123.9(b) of this subchapter.

Note 1 to paragraph (b): The exemption in paragraph (a) of this section does not remove other applicable U.S. statutory and regulatory requirements. For example, for U.S. authorized users, transfers of classified defense articles and defense services must still meet the requirements in 32 CFR part 117, National Industrial Security Program Operating Manual (NISPOM), in addition to all other applicable laws. Australian authorized users must, for example, meet the requirements in the Australian Protective Security Policy Framework, including appropriate security risk management for contracted providers. United Kingdom authorized users must, for example, meet the requirements in the Government Functional Standards GovS 007: Security.

■ 8. Amend § 126.15 by revising the section heading and adding paragraphs (c) and (d) to read as follows:

§ 126.15 Expedited processing of license applications for the export of defense articles and defense services to Australia, the United Kingdom, or Canada.

* * * * *

(c) Any application submitted for authorization of the export of defense articles or defense services to Australia, the United Kingdom, or Canada, describing an export that cannot be undertaken under an exemption provided in this subchapter, will be expeditiously processed by the Department of State. The prospective export must occur wholly within, or between the physical territories of Australia, the United Kingdom, Canada, or the United States, and between governments or persons from such countries.

(d) To the extent practicable, any application in paragraph (c) of this section to export defense articles and defense services related to a government-to-government agreement between Australia, the United Kingdom, or Canada, and the United States must be approved, returned, or denied within 30 days of submission. For all other license applications, any review shall be completed no later than 45 calendar days after the date of the application. The provisions of this paragraph (d) do not apply to any applications which require congressional certification.

■ 9. Amend § 126.18 by adding paragraph (e) to read as follows:

§ 126.18 Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals.

* * * * *

(e) Notwithstanding any other provisions of this subchapter, no license is required for the retransfer or reexport of classified defense articles to citizens of Australia or the United Kingdom, provided such individuals:

(1) Are dual nationals of another country;

(2) Are authorized users or regular employees of an authorized user of the exemption in § 126.7;

(3) Hold a security clearance approved by Australia, the United Kingdom, or the United States that is equivalent to the classification level of SECRET or above in the United States; and

(4) Are either:

(i) Within the physical territory of Australia, the United Kingdom, or the United States; or

(ii) A member of the armed forces of Australia, the United Kingdom, or the United States acting in their official capacity.

10. Add supplement no. 2 to part 126 to read as follows:

Supplement No. 2 to Part 126—Excluded Technology List

This supplement lists the defense articles and defense services excluded from the scope of the exemption provided at § 126.7. The United States Munitions List (USML), see 22 CFR 121.1, entries in column 1 represent the location of the excluded defense articles and defense services within the USML and does not indicate the entire USML entry in column 1 is excluded; only the portions of those entries that are further described in column 2 are excluded.

USML entry	Exclusion
I through XV, and XX	Missile Technology Control Regime (MTCR) articles, as annotated on the USML by an ''MT'' designation, except for articles described in USML Category VIII(h)(12); and directly related technical data and defense services.
I through XX	Articles having anti-tamper features developed in accordance with a U.S. Department of Defense (DoD) Program Protection Plan, not already installed in the commodity they are intended to protect; and directly related technical data and defense services.
II(k), III(e), IV(i), X(e), and XIX(g)	Manufacturing know-how (see § 120.43(e) of this subchapter) directly related to: —articles described in USML Categories II(d), III(d)(1) or (2), IV(a), (b), (d), (g), or (h), X(a)(1) or (2), or XIX; or —parts, components, accessories, or attachments that are only used in those articles.
II(j)(9) through (11), and (k)	Articles described in USML Category II(j)(9) through (11) that are not an element of an armament, weapon, or military platform; and directly related technical data and defense services.
III(a)(9) and (e); IV(a)(5) and (6), (b)(2), (c), (g), (h), and (i); VI(f)(6) and (g); VIII(h)(6) and (i); XI(c) and (d); XII(a), (d), (e), and (f); and XX(c) and (d).	Cluster munitions and articles specially designed for cluster munitions; and directly related technical data and defense services.
IV(a)(3), (9), (10), and (11), (b)(2), (h)(5), and (i)	Articles described in USML Category IV(a)(3), (9), (10), or (11), or (h)(5); launcher mechanisms for MANPADS; and directly related technical data and defense services.
V(a)(13)(iii) and (iv), (a)(23)(iii), (d)(3), (i), and (j)	Articles described in USML Category V(a)(13)(iii) or (iv), (a)(23)(iii), or (d)(3); articles, other than propellants, described in USML Category V(i); and directly related technical data and defense services.
VI(e), (f)(5), and (g); and XX(b)(1), (c), and (d)	Articles described in USML Category VI(e) or (f)(5), or XX(b)(1); articles specially designed for articles described in USML Category XX(b)(1); and directly related technical data and defense services.
VIII(a)(2), (h)(1), and (i)	The F–22 aircraft and articles specially designed for the F–22, other than those also used in aircraft other than the F–22; and directly related technical data and defense services.
X(a)(7)(ii), (d)(2) and (3), and (e)	Articles described in USML Category X(a)(7)(ii); articles specially designed therefor; and directly related technical data and defense services.

USML entry	Exclusion
XI(a)(1)(i) and (ii), and (d)	Articles described in USML Category XI(a)(1)(i) or (ii); and directly related technical data and defense services.
XI(a)(2),(c)(1) through (3), and (d)	Classified articles described in USML Category XI(a)(2), other than underwater acoustic decoy countermeasures; classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(3)(xviii),(c)(1) through (3), and (d)	Classified articles described in USML Category XI(a)(3)(xviii); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(4)(i),(c)(1) through (3), and (d)	Classified articles described in USML Category XI(a)(4)(i); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(4)(iii),(c)(1) through (3), and (d)	Classified countermeasure and counter-countermeasure equipment described in USML Category XI(a)(4)(iii); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(a)(5)(iii),(c)(1) through (3) and (18), and (d)	Classified articles described in USML Category XI(a)(5)(iii); classified articles specially designed therefor; and classified, directly related technical data and defense services.
XI(b) and (d)	Classified articles described in USML Category XI(b); and classified, directly related technical data and defense services.
XI(c) and (d)	(1) Articles described in USML Category XI(c) or (d) specially designed for articles described in USML Category XI(a)(1)(i) or (ii); and directly related technical data and defense services. (2) Classified articles described in USML Category XI(c) or (d) that implement countermeasures or counter-countermeasures for defense articles described in USML Category XI(a); and classified, directly related technical data and defense services. (3) Classified articles described in USML Category XI(c) specially designed for articles described in USML Category XIII(b); and classified, directly related technical data and defense services.
XIII(b) and (l)	Classified articles described in USML Category XIII(b); and classified, directly related technical data and defense services.
XIII(d)(2) and (l)	Articles described in USML Category XIII(d)(2); and directly related technical data and defense services.
XIV(a), (b), (c)(5), (f)(1), (i), and (m)	Articles described in USML Category XIV(a), (b), (c)(5), (f)(1), or (i); and directly related technical data and defense services.
XV(a), (e), and (f)	Classified articles described in USML Category XV(a) or (e); and classified, directly related technical data and defense services.
XVI	Articles described in USML Category XVI; and directly related technical data and defense services.
XVIII	Classified articles described in USML Category XVIII specially designed for counter-space operations; and classified, directly related technical data and defense services.
XIX(e), (f)(1), (2), (7), and (12), and (g)	(1) Classified articles described in USML Category XIX(e), (f)(1), or (f)(2), not already integrated into a complete engine; and directly related technical data and defense services. (2) Classified articles described in USML Category XIX(f)(7) or (12) for excluded articles described in USML Category XIX(f)(1) or (2); and directly related technical data and defense services.
XX(b)(2), (c), and (d)	Articles described in USML Category XX(b)(2); articles specially designed therefor; and directly related technical data and defense services.
XX(d)	Design methodology, engineering analysis, and manufacturing know-how (see § 120.43 of this subchapter) directly related to: —crewed vessels described in USML Category XX(a); or —articles described in USML Category XX(b) or (c) that are used only in: ○ crewed vessels, ○ classified payloads, or ○ classified Uncrewed Underwater Vehicle (UUV) signature reduction techniques.
XXI	Commodities, software, technical data, and defense services, unless specifically designated as eligible for the exemption provided at § 126.7 in State's written Category XXI determination.

Bonnie D. Jenkins,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2024–18043 Filed 8–16–24; 11:15 am]

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POSTAL REGULATORY COMMISSION

39 CFR Parts 3000, 3010, 3040, and 3041

[Docket No. RM2023–5; Order No. 7353]

RIN 3211–AA34

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules establishing requirements for reviewing contracts negotiated between the Postal Service and customers for competitive services. These contracts are known as competitive negotiated service agreements (NSAs). The final rule includes a default method for reviewing competitive NSAs and three optional streamlined methods. Different requirements apply to each method for reviewing proposed competitive NSAs. In addition, the final rules include requirements for administering approved competitive NSAs.

DATES: Effective September 19, 2024.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

I. Background
II. Basis of Final Rules

I. Background

A Negotiated Service Agreement (NSA) is ''a written contract, to be in effect for a defined period of time, between the Postal Service and a mailer, which provides for customer-specific rates or fees and/or terms of service in accordance with the terms and conditions of the contract.'' 39 CFR 3010.101(f). These NSAs require prior Commission approval before they are added to the applicable product lists; however, different statutory and regulatory criteria apply to the approval of Market Dominant NSAs and Competitive NSAs.[1]

Before adding a product (such as a Competitive NSA) to the Competitive product list, the Commission undertakes two types of review: (1) review under 39 U.S.C. 3642; and (2) review under 39 U.S.C. 3633. Upon consideration of required information submitted by the Postal Service, including projections of the proposed product's revenues and costs and responses to any information requests,[2] the Commission determines whether the product complies with the requirements for Competitive products in 39 U.S.C. 3642. The Commission also makes a preliminary determination of whether the proposed product will comply with the criteria outlined in 39 U.S.C. 3633(a). Final determination of compliance with 39 U.S.C. 3633(a) is made retrospectively, in the Commission's *Annual Compliance Determination(s)* (ACD), as set forth in 39 U.S.C. 3653.

Over the years, various efforts have sought to streamline review of NSAs in certain respects by applying the concept of functional equivalence to groups of NSAs.[3] An umbrella product is a grouping of NSAs that are functionally equivalent to a baseline agreement. The Commission has used a functional equivalence analysis to approve umbrella product agreements.[4] Non-published rates NSA products are a refinement of umbrella products that receive further streamlined review because the products ''conform to a template agreement and offer prices within specified, pre-approved ranges.'' Order No. 5753 at 3. These products must comply with Commission classification and regulatory requirements, including pre-approved pricing formulas, minimum cost coverage, and documentation, and allow for a streamlined review process because the contract template and financial model are approved in advance.[5]

In Order No. 6446,[6] the Commission outlined concepts for potential enhancements to its regime for adding NSAs to the Competitive product list in a conceptual framework. *See* Order No. 6446 at 12. The Commission received comments in response to Order No. 6446. Having considered the comments received, the Commission proposed rules.[7]

II. Basis of the Final Rules

The Commission codifies, with modifications, its existing NSA filing and review procedures as default rules for proposals to add NSAs to the Competitive product list. The Commission codifies, with modifications, existing, optional, streamlined methods for adding qualifying umbrella products and non-published rate products to the Competitive product list. The Commission also creates a new streamlined filing option for qualifying NSAs called Standardized Distinct Products. Each streamlined option has distinct filing and review procedures providing different levels of scrutiny and streamlined review. The final rules preserve the Postal Service's existing contracting flexibility with default review procedures, while providing the option for streamlined pre-implementation review of NSAs that satisfy the eligibility requirements of one of the optional streamlined methods.

The Commission establishes new filing and review procedures for Standardized Distinct Product NSAs. These procedures include advance review of financial models to streamline review of individual NSAs that are based on existing Postal Service competitive products. Proposing new non-published rate products also involves advance review of financial models. By contrast, filing and review procedures for umbrella products generally follow current practices. Default filing and review procedures consist of former, generally applicable filing and review practices for competitive NSAs (other than umbrella product or non-published rate product NSAs).

The Commission also establishes rules for administering NSAs on the competitive product list. These rules cover amendments, renewals, extensions, and terminations of competitive NSAs, as well as periodic reporting requirements.

The final rules are designed to streamline competitive NSA review, while ensuring transparency and accountability, preserving existing flexibility, and enabling a smooth transition with minimum disruption for stakeholders. Under the final rules, the vast majority of proposed competitive NSAs should qualify for a streamlined review procedure. Use of such streamlined procedures, particularly the Standardized Distinct Product option, should markedly simplify adding new NSAs to the competitive product list.

Final Rules

List of Subjects

39 CFR Part 3000

Organization and functions, Seals and insignia.

[1] *See, e.g.,* 39 U.S.C. 3642; Postal Regulatory Commission, *Annual Report to the President and Congress* Fiscal Year 2021, January 25, 2022, at 26 (*FY 2021 Annual Report*) (stating that the Commission reviews Market Dominant NSAs to ensure they comply with 39 U.S.C. 3622(c)(10) and the Commission's regulations in 39 CFR part 3040, subpart G); *id.* at 28 (stating that Competitive NSAs require prior Commission review for compliance with 39 U.S.C. 3633(a) and 39 CFR part 3035). The focus of this docket is Competitive NSAs.

[2] *See* 39 CFR 3035.105. This information includes ''[s]ufficient revenue and cost data for the 12-month period following the effective date of the rate or class to demonstrate that each affected competitive product will be in compliance with 39 U.S.C. 3633(a)(2)[.]'' 39 CFR 3035.105(c)(1).

[3] *See, e.g.,* Docket No. CP2008–5, Order Concerning Global Expedited Package Services Contracts, June 27, 2008 (Order No. 86).

[4] *See, e.g.,* Order No. 5753 at 2–3 (summarizing the Commission's approach to ''umbrella'' products); Docket No. R2013–9, Order Granting, in Part, Motion for Partial Reconsideration of Order No. 1864 and Modifying, in Part, Order No. 1864, August 11, 2014, at 7 (Order No. 2148) (allowing then-existing ''umbrella'' products to designate multiple baseline agreements but ''plan[ning] to discontinue the practice of designating more than one baseline reference.''). The Commission also has considered similar arrangements termed ''shell classifications,'' which may use a ''shell'' or template in lieu of an actual agreement as a baseline. *See* Docket No. CP2008–8 *et al.,* Order Concerning Global Plus Negotiated Service Agreements, June 27, 2008, at 7–8 (Order No. 85); *cf.* Docket No. MC2008–6 *et al.,* Order Concerning Prices Under Inbound Direct Entry Contracts with Certain Foreign Postal Administrations, September 4, 2008, at 3, 7 (Order No. 105).

[5] *See* Order No. 5753 at 3; Docket Nos. MC2010–29 and CP2010–72, Order Approving Postal Service Request to Add Global Expedited Package Services—Non-Published Rates 1 to the Competitive Product List, November 22, 2010, at 15 (Order No. 593) (''[T]he model contract is based on business rules which ensure that each contract covers its attributable costs and makes a contribution to institutional costs.'').

[6] Advance Notice of Proposed Rulemaking on Regulations Pertaining to Competitive Negotiated Service Agreements, February 24, 2023, at 1 (Order No. 6446); 88 FR 13752 (March 6, 2023).

[7] Notice of Proposed Rulemaking to Amend Rules Regarding Competitive Negotiated Service Agreements, January 30, 2024 (Order No. 6953); 89 FR 8377 (February 7, 2024).

39 CFR Part 3010

Administrative practice and procedure, Confidential business information, Freedom of information, Sunshine Act.

39 CFR Part 3040

Administrative practice and procedure, Foreign relations, Postal service.

39 CFR Part 3041

Administrative practice and procedure, Postal service, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of the Federal Regulations as follows:

PART 3000—THE COMMISSION AND ITS OFFICES

■ 1. The authority citation for part 3000 continues to read as follows:

Authority: 39 U.S.C. 503; 5 U.S.C. 552.

■ 2. Amend § 3000.114 by revising paragraph (a) to read as follows:

§ 3000.114 The Public Representative.

(a) Pursuant to 39 U.S.C. 505, the Commission appoints a staff member, on a case-by-case basis, to serve as a representative of the general public's interests in public proceedings before the Commission; pursuant to 39 U.S.C. 3653, 39 U.S.C. 3661, and 39 U.S.C. 3662, and 39 U.S.C. 3705, the Commission also appoints a staff member, on a case-by-case basis, to serve as a representative of the general public's interests in certain proceedings; and, pursuant to 39 U.S.C. 504(a), the Chairman may appoint a staff member, on a case-by-case basis, to serve as a representative of the general public's interests in other proceedings before the Commission. In all such proceedings, the appointee is called the Public Representative.

* * * * *

PART 3010—RULES OF PRACTICE AND PROCEDURE

■ 3. The authority citation for part 3010 continues to read as follows:

Authority: 39 U.S.C. 404(d); 503; 504; 3661.

■ 4. Amend § 3010.101 by:
■ a. Redesignating paragraphs (p) through (u) as paragraphs (q) through (v);
■ b. Adding new paragraph (p); and
■ c. Revising newly redesignated paragraph (q).

The addition and revision read as follows:

§ 3010.101 Definitions.

* * * * *

(p) *Public proceeding* means a proceeding developing rules, regulations, and procedures or a proceeding materially affecting the interests of the general public. A proceeding considering a request for summary approval of a negotiated service agreement or of an amendment to a negotiated service agreement is not a public proceeding. A proceeding considering a request to amend a negotiated service agreement for the sole purpose of extending the expiration date of the negotiated service agreement is not a public proceeding.

(q) *Public Representative* or *PR* means an officer of the Commission designated to represent the interests of the general public:

(1) In a public proceeding;

(2) With respect to any one of the following:

(i) The Commission's annual determination of compliance;

(ii) A request for an advisory opinion on a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis,

(iii) A rate or service complaint; or

(iv) Appeal of a Postal Service determination to close or consolidate a post office; or

(3) As appointed by the Chairman.

* * * * *

■ 5. Amend § 3010.102 by redesignating paragraphs (d)(1)(vii) through (xiv) as paragraphs (d)(1)(viii) through (xv) and adding a new paragraph (d)(1)(vii).

The addition reads as follows:

§ 3010.102 Commission dockets.

* * * * *

(d)(1) * * *

(vii) Competitive Negotiated Service Agreement (K);

* * * * *

■ 6. Revise § 3010.140 to read as follows:

§ 3010.140 Opportunity to comment.

Except for proceedings involving an appeal of a Postal Service determination to close or consolidate a post office, any person may submit comments in public proceedings before the Commission. An opportunity to provide a reply to comments shall be at the discretion of the Commission, or the presiding officer if one is appointed. The scope and timing of comments and reply comments may be specified by notice, order, or presiding officer's ruling. There is no requirement to intervene in a proceeding as a party in order to submit comments.

■ 7. Amend § 3010.152 by revising paragraphs (a) and (b)(5) and (6) to read as follows:

§ 3010.152 Notices initiating dockets for consideration of negotiated service agreements.

(a) The Secretary shall issue a notice to initiate a docket for each request that proposes 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. Multiple requests may be combined into a single notice.

(b) * * *

(5) The appointment of an officer of the Commission to represent the interests of the general public in the proceeding, unless the proceeding is not a public proceeding;

(6) The comment deadline pertaining to each request, unless the proceeding is not a public proceeding.

* * * * *

■ 8. Amend § 3010.200 by revising paragraph (b) to read as follows:

§ 3010.200 Applicability.

* * * * *

(b) Unless the Commission orders otherwise, this subpart shall not apply to proceedings governed by subpart F of this part (Proceedings with an Opportunity for a Hearing on the Record). This subpart also shall not apply to the following parts of subchapter D of chapter III (Special Rules of Practice for Specific Proceeding Types) of this title: part 3020 (Rules Applicable to Requests for Changes in the Nature of Postal Services), part 3021 (Rules for Appeals of Postal Service Determinations to Close or Consolidate Post Offices), part 3022 (Rules for Complaints) of this chapter, part 3023 (Rules for Rate or Service Inquiries), and part 3024 (Special Rules for Complaints Alleging Violations of 39 U.S.C. 404a). This subpart shall not apply to any proceeding governed by §§ 3041.325, 3041.505(f), and 3041.505(g) (Competitive Negotiated Service Agreements) of this chapter.

PART 3040—PRODUCT LISTS AND THE MAIL CLASSIFICATION SCHEDULE

■ 9. The authority citation for part 3040 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 10. Amend § 3040.101 by adding paragraph (e) to read as follows:

§ 3040.101 Applicability.

* * * * *

(e) Modification of the competitive product list to add a competitive negotiated service agreement is not governed by this part but is governed by part 3041 of this chapter. The rules in part 3041 of this chapter regarding removal of a negotiated service agreement from the competitive product list supersede any conflicting rules in this part.

■ 11. Add part 3041 to subchapter E to read as follows:

PART 3041—COMPETITIVE NEGOTIATED SERVICE AGREEMENTS

Subpart A—General

Sec.
3041.105 General.
3041.110 Definitions.

Subpart B—Advance Review

3041.205 Advance review of non-published rates products and standardized distinct products.

Subpart C—Adding Negotiated Service Agreements to the Competitive Product List

3041.305 Applicability.
3041.310 General procedures and filing requirements.
3041.315 Procedures and filing requirements for umbrella products.
3041.320 Procedures and filing requirements for non-published rates negotiated service agreements.
3041.325 Procedures and filing requirements for standard distinct product negotiated service agreements.

Subpart D—Commission Review

3041.405 Docket and notice.
3041.410 Required findings.
3041.415 Commission review and disposition of requests to add negotiated service agreements to the competitive product list.

Subpart E—Negotiated Service Agreements on the Competitive Product List

3041.505 Amendments to competitive negotiated service agreements.
3041.510 Renewals of competitive negotiated service agreements.
3041.515 Extensions
3041.520 Terminations

Subpart F—Negotiated Service Agreement Reporting and Compliance

3041.605 Competitive negotiated service agreement reporting requirements.

Authority: 39 U.S.C. 503; 39 U.S.C. 3633.

Subpart A—General

§ 3041.105 General.

(a) This part applies to competitive negotiated service agreements.

(b) When a general rule conflicts with a rule governing a specific streamlined option, the rule governing the specific streamlined option shall take precedence.

(c) Commission findings that the addition of a competitive negotiated service agreement to the competitive product list is not inconsistent with the standards of 39 U.S.C. 3633 are provisional and subject to subsequent review.

(d) The addition of a competitive negotiated service agreement to the competitive product list is limited to the term of the negotiated service agreement, as it may be extended. The Commission will remove a negotiated service agreement from the competitive product list automatically upon the expiration or termination of the negotiated service agreement. Any request to remove a negotiated service agreement from the competitive product list unrelated to expiration or termination of the negotiated service agreement shall follow the applicable procedures outlined in part 3040 of this chapter.

(e) When a rule in subpart E of this part conflicts with a provision of a negotiated service agreement added to the competitive product list before September 19, 2024, the provision of the negotiated service agreement shall take precedence.

§ 3041.110 Definitions.

The definitions in this section apply to this part.

(a) *Baseline agreement.* A negotiated service agreement that serves as a model for an included contract in an umbrella product.

(b) *Contract template.* A template for included contracts in a non-published rates product.

(c) *Financial model.* A workbook showing detailed projected cost, revenue, and volume data for a negotiated service agreement; containing all supporting inputs and calculations; and identifying the sources of all such inputs. A financial model must not be inconsistent with accepted analytical principles within the meaning of part 3050 of this chapter and must not be inconsistent with accepted quantification techniques within the meaning of part 3050 of this chapter.

(d) *Functionally equivalent negotiated service agreements.* Negotiated service agreements that have similar cost characteristics and similar market characteristics.

(e) *Included contract.* A negotiated service agreement included as part of an umbrella product or non-published rates product.

(f) *Minimum rates.* The set of lowest rates that could be offered pursuant to the terms of a negotiated service agreement, or specified in a financial model, for each rate cell.

(g) *Negotiated service agreement.* As defined in § 3010.101(f) of this chapter, a written contract, to be in effect for a defined period of time, between the Postal Service and a mailer, which provides for customer-specific rates or fees and/or terms of service in accordance with the terms and conditions of the contract. A rate associated with a negotiated service agreement is not a rate of general applicability.

(h) *Negotiated Service Agreement (NSA) summary proceeding.* A streamlined proceeding considering a Postal Service request to add to the competitive product list a product for which use of a financial model has been authorized in a streamlined-option rulemaking or a Postal Service request to amend such a product. Such a proceeding is not a public proceeding.

(i) *Non-published rates product.* A single product consisting of a contract template and any included contracts that are functionally equivalent to the contract template and use a single common financial model.

(j) *Notice information.* Contact information specified in a negotiated service agreement for one party to provide the other party with notice in accordance with the terms of the negotiated service agreement.

(k) *Postal Service executive.* The Postmaster General, the Deputy Postmaster General, or a Postal Service vice president. The term ''Postal Service executive'' also includes any Postal Career Executive Service employee whose principal duties include the administration of negotiated service agreements and who reports directly to the Postal Service vice president overseeing the administration of negotiated service agreements.

(l) *Rate cell.* Each and every separate rate identified in a financial model or negotiated service agreement.

(m) *Standardized distinct product.* A negotiated service agreement that is a variation of one or more competitive products offered as rates of general applicability or added to the competitive product list as rates not of general applicability.

(n) *Streamlined option.* An optional procedural approach to filing requirements for a request to add a negotiated service agreement to the competitive product list and to review of such negotiated service agreement.

(o) *Streamlined-option rulemaking.* A rulemaking proceeding that considers financial models, contract templates, and Mail Classification Schedule

changes in connection with a streamlined option.

(p) *Umbrella product.* A single product consisting of a baseline agreement and one or more included contracts that are functionally equivalent to the baseline agreement.

Subpart B—Advance Review

§ 3041.205 Advance review of non-published rates products and standardized distinct products.

(a) The Commission reviews proposed financial models, minimum rates, and Mail Classification Schedule changes in streamlined-option rulemakings to permit streamlined review of non-published rates products and standardized distinct products.

(b) Streamlined-option rulemakings follow the procedures set forth in part 3010, subpart E of this chapter and the additional procedures set forth in this section.

(c) In addition to providing the information required by § 3010.201(b)(1) of this chapter, a petition for a streamlined-option rulemaking must:

(1) Provide a proposed financial model containing:

(i) Minimum rates for all rate cells;

(ii) Projected volume for all rate cells;

(iii) Projected revenue at minimum rates;

(iv) Projected costs attributable;

(v) Projected coverage of costs attributable within the meaning of 39 U.S.C. 3633(a), expressed as a percentage; and

(vi) All input data, sources, and calculations used;

(2) Provide a narrative explanation of how the proposed financial model complies with paragraph (d)(1) of this section;

(3) Explain why the projected cost, revenue, and volume data in the proposed financial model are reasonable and reliable;

(4) Identify the existing competitive product(s) on which proposed products will be based and the Commission order(s) in which such existing competitive product(s) were determined to be competitive;

(5) Identify each way in which proposed products could differ from the existing competitive product(s) identified in paragraph (c)(4) of this section;

(6) Explain why the potential differences identified in paragraph (c)(5) of this section do not cause any proposed products to satisfy the definition of a market dominant product within the meaning of 39 U.S.C. 3642(b)(1); and

(7) Identify the Mail Classification Schedule section in which proposed products will be listed and provide any proposed changes therein in legislative format.

(d) The financial model must:

(1) Demonstrate that each negotiated service agreement that will use the minimum rates is not inconsistent with the standards of 39 U.S.C. 3633; and

(2) Rely on reasonable and reliable projected cost, revenue, and volume data.

(e) The Mail Classification Schedule entry, including any proposed changes, must:

(1) Identify all material differences between proposed products and the exiting competitive product(s) on which proposed products are based;

(2) Specify all options and features of proposed products included in the financial model; and

(3) For proposed products based on an existing product with rates not of general applicability, including a negotiated service agreement, describe all material aspects of the proposed products, including the information identified in § 3040.104(b)(3)(ii)(A) of this chapter.

(f) The Commission will issue an order authorizing the proposed financial model, minimum rates, and any Mail Classification Schedule changes for use in requests to add standardized distinct products and non-published rates products to the competitive product list if, after review, the Commission finds that:

(1) The financial model and minimum rates are not inconsistent with the standards of 39 U.S.C. 3633;

(2) The products using such proposed financial model, minimum rates, and Mail Classification Schedule changes will be competitive products; and

(3) The proposed Mail Classification Schedule changes comply with the requirements of this section and are not inconsistent with the proposed financial model.

(g) As a condition of any authorization issued pursuant to paragraph (f) of this section, the Postal Service shall be required to update the financial model whenever more accurate or complete cost, revenue, or volume data are available and no less frequently than every 12 months from the date on which such authorization is granted. Upon review of any updated financial model, the Commission may require changes to any applicable minimum rates to ensure that the minimum rates are not inconsistent with the standards of 39 U.S.C. 3633.

Subpart C—Adding Negotiated Service Agreements to the Competitive Product List

§ 3041.305 Applicability.

(a) This subpart imposes requirements regarding the addition of negotiated service agreements to the competitive product list. These requirements are in addition to other requirements imposed by part 3035 of this chapter.

(b) The general requirements appearing in § 3041.310 apply to a request to add a negotiated service agreement to the competitive product list unless the request is filed under one of the streamlined, alternative options for competitive negotiated service agreement consideration appearing in §§ 3041.315, 3041.320, and 3041.325.

(c) Section 3041.320 is not applicable to any request to add an included contract to a non-published rates product listed on the competitive product list as of the effective date of this part. Any such request is governed by the terms of the Commission order approving the addition of such non-published rates contract to the competitive product list.

§ 3041.310 General procedures and filing requirements.

(a) Except as otherwise provided in §§ 3041.315, 3041.320, and 3041.325, in order to add a negotiated service agreement to the competitive product list, a request must be filed with the Commission as provided in this section and § 3035.105 of this chapter.

(b) Each request to add a negotiated service agreement to the competitive product list must include each of the following items:

(1) A copy of the negotiated service agreement;

(2) The rate and class decision of the Postal Service Board of Governors under 39 U.S.C. 3632 relating to the proposed negotiated service agreement and the record of the proceedings in connection with such decision;

(3) A copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format;

(4) The name, and class if applicable, of the proposed negotiated service agreement;

(5) A description clearly explaining the operative components of the negotiated service agreement;

(6) An explanation of the reason for initiating the docket and of why the proposed negotiated service agreement is not inconsistent with the applicable requirements of this part and any applicable Commission directives and orders;

(7) An explanation of the reasons why the addition of the product to the competitive product list will not result in a violation of the standards of 39 U.S.C. 3633;

(8) Verification that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:

(i) Set the price of such product substantially above costs;

(ii) Raise prices significantly;

(iii) Decrease quality; or

(iv) Decrease output;

(9) Explanation of whether or not the proposed negotiated service agreement is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;

(10) A description of the availability and nature of enterprises in the private sector engaged in the delivery of the proposed negotiated service agreement or substantially similar products;

(11) Any information available on the views of those who use, or will use, the proposed negotiated service agreement on the appropriateness of the proposed negotiated service agreement;

(12) A description of the likely impact of the proposed negotiated service agreement on small business concerns;

(13) The information required by § 3035.105(a) of this chapter;

(14) The information required by § 3035.105(b) of this chapter;

(15) The information required by § 3035.105(c) of this chapter;

(16) All other supporting justification upon which the Postal Service proposes to rely; and

(17) Such other information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed negotiated service agreement.

(c) In order to authorize the addition of a negotiated service agreement to the competitive product list, the Commission must:

(1) Give due regard to:

(i) The availability and nature of enterprises in the private sector engaged in the delivery of the proposed product;

(ii) The views of those who will use the proposed product on the appropriateness of adding the proposed product to the competitive product list; and

(iii) The likely impact of adding the proposed product to the competitive product list on small business concerns; and

(2) Make the following findings:

(i) The proposed negotiated service agreement is a competitive product; and

(ii) The proposed negotiated service agreement is not inconsistent with the standards of 39 U.S.C. 3633.

§ 3041.315 Procedures and filing requirements for umbrella products.

(a) The procedures described in this section and in § 3035.105(a) of this chapter apply to requests to add an included contract to an umbrella product or to create an umbrella product by adding an included contract to an existing baseline agreement. Requests to add a new negotiated service agreement to the competitive product list for use as a baseline agreement must instead follow the requirements of § 3041.310.

(b) Any of the following negotiated service agreements may function as a baseline agreement:

(1) An active negotiated service agreement, other than an included contract in a non-published rates product, listed on the competitive product list as of the effective date of this part.

(2) An active negotiated service agreement added to the competitive product list following a request pursuant to § 3041.310.

(3) An expired or terminated negotiated service agreement, other than an included contract in a non-published rates product or a standardized distinct product, that the Commission authorized to serve as a baseline agreement before its expiration or termination.

(c) Only the Postal Service is permitted to propose to add an included contract to an umbrella product.

(d) A proposal to add an included contract to an umbrella product must include:

(1) A copy of the proposed included contract;

(2) The rate and class decision of the Postal Service Board of Governors under 39 U.S.C. 3632 relating to the proposed included contract and the record of the proceedings in connection with such decision;

(3) A statement identifying the applicable baseline agreement;

(4) A copy of the applicable sections of the Mail Classification Schedule and the proposed addition thereto in legislative format;

(5) A description clearly explaining the operative components of the included contract;

(6) An explanation of the reason for initiating the docket and of why the proposed negotiated service agreement is not inconsistent with the applicable requirements of this part and any applicable Commission directives and orders;

(7) An explanation of the reasons why the addition of the included contract to the umbrella product will not result in a violation of the standards of 39 U.S.C. 3633;

(8) A demonstration that the proposed included contract is functionally equivalent to the baseline agreement;

(9) The information required by § 3035.105(a) of this chapter;

(10) The information required by § 3035.105(b) of this chapter;

(11) The information required by § 3035.105(c) of this chapter;

(12) All other supporting justification upon which the Postal Service proposes to rely; and

(13) Such other information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed included contract.

(e) In order to authorize the addition of an included contract to an umbrella product, the Commission must make the following findings:

(1) The proposed included contract is functionally equivalent to the baseline agreement; and

(2) With the addition of the proposed included contract, the umbrella product is not inconsistent with the standards of 39 U.S.C. 3633.

§ 3041.320 Procedures and filing requirements for non-published rates negotiated service agreements.

(a) A request to add a non-published rates product to the competitive product list must comply with the requirements of this section and the requirements of § 3035.105(a) of this chapter.

(b) A non-published rates product contract template may be proposed at any time during or following the pendency of a streamlined-option rulemaking considering a proposed financial model, minimum rates, and Mail Classification Schedule changes for standardized distinct products and non-published rates products.

(c) A non-published rates product is added to the competitive product list after:

(1) Issuance of a Commission order authorizing the use of an applicable financial model, minimum rates, and Mail Classification Schedule changes in a streamlined-option rulemaking; and

(2) Issuance of a Commission order approving the non-published rates product contract template.

(d) A non-published rates product financial model, minimum rates, and Mail Classification Schedule changes must be, or have been, proposed in a streamlined-option rulemaking.

(e) A proposal for a non-published rates product contract template must include the following information:

(1) The proposed non-published rates product contract template;

(2) The rate and class decision of the Postal Service Board of Governors under 39 U.S.C. 3632 relating to the proposed non-published rates product contract template and the record of the proceedings in connection with such decision;

(3) A copy of the applicable sections of the Mail Classification Schedule and the proposed addition therein in legislative format;

(4) The number of the Commission order approving the use of the financial model associated with the proposed non-published rates product contract template or the number of the docket in which the financial model associated with the proposed non-published rates product contract template is being considered;

(5) A description clearly explaining the operative components of the non-published rates product contract template;

(6) A description of the availability and nature of enterprises in the private sector engaged in the delivery of the postal services involved in the proposed non-published rates product contract template;

(7) A description of the views of those who will use the postal services involved in the proposed non-published rates product contract template on the appropriateness of the proposed non-published rates product contract template;

(8) A description of the likely impact of the proposed non-published rates product contract template on small business concerns;

(9) In lieu of the certified statement required by § 3035.105(c)(2) of this chapter, a sworn statement of a Postal Service executive certifying that the proposed non-published rates product contract template is not inconsistent with the financial model approved, or under consideration by the Commission, in the order or docket identified in paragraph (e)(4) of this section;

(10) All other supporting justification upon which the Postal Service proposes to rely; and

(11) Such other information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed non-published rates product contract template.

(f) A non-published rates product contract template may include optional provisions to be selected by customers, provided that:

(1) The addition of any optional provision in any included contract will not be inconsistent with the standards of 39 U.S.C. 3633;

(2) The addition of any optional provision in any included contract represents a minor change to the included contract; and

(3) Each included contract that could be derived from the contract template is functionally equivalent to every other included contract that could be derived from the contract template.

(g) In order to authorize the addition of a non-published rates product to the competitive product list, the Commission must:

(1) Give due regard to:

(i) The availability and nature of enterprises in the private sector engaged in the delivery of the proposed product;

(ii) The views of those who will use the proposed product on the appropriateness of adding the proposed product to the competitive product list; and

(iii) The likely impact of adding the proposed product to the competitive product list on small business concerns; and

(2) Make the following findings:

(i) The proposed non-published rates product is a competitive product; and

(ii) The proposed non-published rates product contract template is not inconsistent with the standards of 39 U.S.C. 3633.

(h) After a non-published rates product has been approved, the Postal Service may add one or more included contracts to the product without filing a request or otherwise obtaining further approval from the Commission, provided that:

(1) The included contract does not deviate in any way from the non-published rates product contract template;

(2) No rate in any included contract is less than the corresponding minimum rate authorized in the associated streamlined-option rulemaking;

(3) The included contract bears a unique serial number; and

(4) Within 10 days after the effective date of each included contract, the Postal Service:

(i) Notifies the Commission of the effective date and scheduled expiration date of the included contract; and

(ii) Files a version of the applicable financial model updated to include all projected cost, revenue, and volume data specific to the included contract.

(i) Only the Postal Service is permitted to add an included contract to a non-published rates product.

(j) If any included contract is terminated before its scheduled expiration date, the Postal Service must inform the Commission within 7 days after such termination.

(k) If the Commission finds that the Postal Service has failed to comply with any requirements of paragraph (h) or (j) of this section, the Commission may take any of the following actions:

(1) Require the Postal Service to request Commission approval in accordance with such terms as the Commission may specify by order, and obtain such approval, before adding any additional included contracts to non-published rates products; or

(2) Take other appropriate remedial action.

§ 3041.325 Procedures and filing requirements for standard distinct product negotiated service agreements.

(a) A request to add a standardized distinct product to the competitive product list must comply with the requirements of this section and the requirements of § 3035.105(a) of this chapter.

(b) A standardized distinct product may be proposed at any time during or following the pendency of a streamlined-option rulemaking considering a proposed financial model, minimum rates, and Mail Classification Schedule changes for standardized distinct products and non-published rates products. A single standardized distinct product may include minimum rates and Mail Classification Schedule changes authorized in multiple streamlined-option rulemakings.

(c) A standardized distinct product is added to the competitive product list after:

(1) Issuance of one or more Commission orders authorizing the use of one or more applicable proposed financial models, minimum rates, and Mail Classification Schedule changes in a streamlined-option rulemaking; and

(2) Issuance of a Commission order approving the addition of the standardized distinct product to the competitive product list in an NSA summary proceeding.

(d) In each NSA summary proceeding, the Postal Service shall submit:

(1) A copy of the negotiated service agreement;

(2) The rate and class decision of the Postal Service Board of Governors under 39 U.S.C. 3632 relating to the proposed negotiated service agreement and the record of the proceedings in connection with such decision;

(3) A copy of the applicable sections of the Mail Classification Schedule and the proposed addition therein in legislative format;

(4) The number(s) of the Commission order(s) resolving the streamlined-option rulemaking(s) applicable to the proposed negotiated service agreement;

(5) The planned effective date(s) of the planned rates.

(6) A description clearly explaining the operative components of the negotiated service agreement;

(7) An explanation of the reason for initiating the docket and of why the proposed standardized distinct product is not inconsistent with the applicable requirements of this part and any applicable Commission directives and orders;

(8) An explanation of the reasons why the addition of the standardized distinct product to the competitive product list will not result in a violation of the standards of 39 U.S.C. 3633;

(9) A description of the availability and nature of enterprises in the private sector engaged in the delivery of the postal services that are the subject of the proposed standardized distinct product;

(10) Any information available on the views of those who use, or will use, the proposed standardized distinct product on the appropriateness of the proposed standardized distinct product;

(11) A description of the likely impact of the proposed standardized distinct product on small business concerns;

(12) In lieu of the certified statement required by § 3035.105(c)(2) of this chapter, a sworn statement of a Postal Service executive certifying that the proposed standardized distinct product is not inconsistent with the financial model authorized for use in the applicable Commission order identified in paragraph (e)(4) of this section;

(13) In lieu of the revenue and cost data required by § 3035.105(c)(1) of this chapter, a version of the applicable financial model updated to include all projected cost, revenue, and volume data specific to the proposed product;

(14) All other supporting justification upon which the Postal Service proposes to rely; and

(15) Such other information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed standardized distinct product.

(e) Only the Postal Service is permitted to propose to add a standardized distinct product to the competitive product list.

(f) In order to authorize the addition of a standardized distinct product to the competitive product list, the Commission must:

(1) Give due regard to:

(i) The availability and nature of enterprises in the private sector engaged in the delivery of the proposed product;

(ii) The views of those who will use the proposed product on the appropriateness of adding the proposed product to the competitive product list; and

(iii) The likely impact of adding the proposed product to the competitive product list on small business concerns; and

(2) Make the following findings:

(i) The proposed standardized distinct product is a competitive product; and

(ii) The proposed standardized distinct product is not inconsistent with the standards of 39 U.S.C. 3633.

Subpart D—Commission Review

§ 3041.405 Docket and notice.

(a) The Commission will issue a notice establishing a docket for each request to add a negotiated service agreement to the competitive product list under this part. The Commission will also issue a notice upon receiving a request complying with the requirements of § 3041.505(b) to amend an existing negotiated service agreement. Notices issued pursuant to this paragraph (a) will include:

(1) The general nature of the proceeding;

(2) A reference to the legal authority pursuant to which the proceeding is to be conducted;

(3) A concise description of the proposal;

(4) If applicable, the identification of an officer of the Commission to represent the interests of the general public in the docket;

(5) If applicable, a specified period for public comment; and

(6) Such other information as the Commission deems appropriate.

(b) The Commission will post the notice on its website. The Commission will promptly publish the notice in the **Federal Register**.

(c) In the case of a request to add a standardized distinct product to the competitive product list or to amend a standardized distinct product, an officer of the Commission to represent the interests of the general public will not be appointed in the docket.

(d) In the case of a request to add a standardized distinct product to the competitive product list or to amend a standardized distinct product, public comment will not be requested in the docket.

§ 3041.410 Required findings.

(a) In order to authorize the addition of a negotiated service agreement to the competitive product list, the Commission must make the findings specified in § 3041.310, except as provided in §§ 3041.315, 3041.320, and 3041.325.

(b) [Reserved].

§ 3041.415 Commission review and disposition of requests to add negotiated service agreements to the competitive product list.

(a) The Commission will review each request to add a negotiated service agreement to the competitive product list and any responsive comments, except as set forth in § 3041.320 regarding non-published rates product included contracts. The Commission will either:

(1) Grant the request upon making the required findings;

(2) Grant the request upon making the required findings with such conditions as the Commission may consider appropriate;

(3) Deny the request; or

(4) Direct other action as the Commission may consider appropriate.

(b) Each grant of a request under paragraph (a)(1) or (2) of this section is conditional upon the submission of accurate information in support of the request. Any such grant may be revoked if the Commission finds that any of the information submitted with the request contained a material misrepresentation.

Subpart E—Negotiated Service Agreements on the Competitive Product List

§ 3041.505 Amendments to competitive negotiated service agreements.

(a) Except as provided in paragraph (c) of this section, an amendment to an existing negotiated service agreement is not effective until the Commission has approved the amendment. In order to approve an amendment to an existing negotiated service agreement the Commission must find that the negotiated service agreement, as amended by the proposed amendment, is not inconsistent with the standards of 39 U.S.C. 3633.

(b) A request to amend a negotiated service agreement must include:

(1) A copy of the amendment;

(2) The planned effective date(s) of the amendment;

(3) A statement explaining the operative components of the amendment; and

(4) If the amendment changes any rates in the negotiated service agreement,

(i) The information required by § 3035.105(a) of this chapter;

(ii) The information required by § 3035.105(b) of this chapter; and

(iii) The information required by § 3035.105(c) of this chapter, except that, for a request to amend a standardized distinct product, a copy of the applicable financial model updated to include all projected cost, revenue, and volume data specific to the product, as amended by the proposed amendment, must be provided.

(5) All other supporting justification upon which the Postal Service proposes to rely; and

(6) Such other information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed amendment.

(c) An amendment to an existing negotiated service agreement may take effect upon filing with the Commission without Commission approval if each of the following requirements is satisfied:

(1) The Postal Service submits a notice to the Commission containing:

(i) A copy of the amendment;

(ii) The planned effective date(s) of the amendment;

(iii) A statement explaining the operative components of the amendment; and

(iv) A sworn statement from a Postal Service executive attesting that the amendment modifies the existing negotiated service agreement only in one or more of the ways specified in paragraph (c)(2), (e)(2), or (f)(2) of this section; and

(2) The amendment modifies the existing negotiated service agreement only in one or more of the following ways:

(i) Changing the customer's name to recognize a change to the legal name of the customer;

(ii) Changing the customer's address;

(iii) Changing the name of any individual identified in the contract;

(iv) Changing notice information;

(v) Increasing any rates, prices, fees, or charges in the negotiated service agreement;

(d) Special rules regarding amending umbrella products.

(1) A baseline agreement shall not be amended, except to:

(i) Change the customer's name to recognize a change to the legal name of the customer;

(ii) Change the customer's address;

(iii) Change the name of any individual identified in the contract;

(iv) Change notice information;

(v) Extend the term of the baseline agreement in accordance with § 3041.515; or

(vi) Make rate changes not inconsistent with the standards of 39 U.S.C. 3633.

(2) An included contract in an umbrella product shall not be amended, unless the amendment remains functionally equivalent to the baseline agreement.

(e) Special rules regarding non-published rates products.

(1) A non-published rates contract template shall not be amended.

(2) An included contract in a non-published rates product shall not be amended, except to:

(i) Change the customer's name to recognize a change to the legal name of the customer;

(ii) Change the customer's address;

(iii) Change the name of any individual identified in the contract;

(iv) Change notice information;

(v) Make rate changes provided that the rates to be charged equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking;

(vi) Extend the included contract's expiration date provided that the rates to be charged equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking;

(vii) Select an alternative optional provision available in the contract template.

(3) An amendment to an existing included contract will take effect without Commission further approval upon filing with the Commission of the notice specified in paragraph (c)(1) of this section.

(f) Special rules regarding standardized distinct products.

(1) A request to amend a standardized distinct product is reviewed in an NSA summary proceeding.

(2) An amendment to an existing standardized distinct product may take effect upon filing with the Commission without Commission approval if:

(i) The Postal Service files the notice specified in paragraph (c)(1) of this section; and

(ii) The amendment modifies the existing standardized distinct product in one or more of the following ways:

(A) Changing the customer's name to recognize a change to the legal name of the customer;

(B) Changing the customer's address;

(C) Changing the name of any individual identified in the contract;

(D) Changing notice information;

(E) Extending the standardized distinct product's expiration date provided that the rates to be charged equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking; or

(F) Implementing changes to rates provided that such changed rates equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking.

(g) Special rules regarding a request to amend a negotiated service agreement to extend the expiration date of the negotiated service agreement.

(1) A request to amend a negotiated service agreement to extend the expiration date of the negotiated service agreement must be submitted in accordance with § 3041.515.

(2) A proceeding considering a request to amend a negotiated service agreement to extend the expiration date of the negotiated service agreement is not a public proceeding.

(h) When a general rule conflicts with a special rule in this section, the special rule shall take precedence.

§ 3041.510 Renewals of competitive negotiated service agreements.

(a) A renewal of a negotiated service agreement is deemed a new negotiated service agreement.

(b) A renewal of a competitive negotiated service agreement will be added to the competitive product list pursuant to the applicable rules for adding a new negotiated service agreement to the competitive product list.

§ 3041.515 Extensions.

(a) A negotiated service agreement may be extended prior to its expiration date upon one of the following:

(1) Timely filing of notice with the Commission of the valid exercise of an extension right in the negotiated service agreement; or

(2) Approval by the Commission of a timely filed amendment extending the expiration date of the negotiated service agreement.

(b) For the purposes of paragraph (a) of this section, a notice or amendment is timely filed if it is filed at least 7 days prior to the expiration of the negotiated service agreement.

(c) Upon expiration, a negotiated service agreement shall be removed automatically from the competitive product list.

(d) No negotiated service agreement shall remain on the competitive product list following its expiration. An expired negotiated service agreement shall not be extended retroactively.

(e) Notwithstanding any other rule in this chapter, the prohibitions in paragraph (d) of this section shall not be waived.

§ 3041.520 Terminations.

(a) The Postal Service shall file notice of the termination of a negotiated

service agreement within 7 days after such termination.

(b) Upon termination, a negotiated service agreement shall be removed automatically from the competitive product list. No negotiated service agreement shall remain on the competitive product list after its termination.

Subpart F—Negotiated Service Agreement Reporting and Compliance

§ 3041.605 Competitive negotiated service agreement reporting requirements.

(a) The Postal Service must file, on a quarterly basis, a summary spreadsheet listing all negotiated service agreements active during any part of the prior quarter. Negotiated service agreements must be listed by Mail Classification Schedule section or in such other way as the Commission requires by order. Such spreadsheet must identify all extensions, expirations, and terminations of negotiated service agreements and any other information the Commission requires by order.

(b) A report is due within 14 days after the last day of each quarter of the fiscal year.

(c) Upon finding that any report contains significant omissions, inaccuracies, or other deficiencies, the Commission may take any of the following actions:

(1) Require the Postal Service to file such reports on a more frequent basis;

(2) Require a Postal Service executive to submit a sworn statement attesting to the accuracy and completeness of each subsequent report; and

(3) Impose other conditions the Commission finds reasonable and appropriate to ensure the accuracy and completeness of such reports.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2024–18270 Filed 8–19–24; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0748; FRL–11882–02–R9]

Air Plan Revisions; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO_X), particulate matter (PM), and oxides of sulfur (SO_X). We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule action will be effective September 19, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0748. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972–3245; email: *evanshopper.lakenya@epa.gov.*

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

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I. Proposed Action

On April 16, 2024 (89 FR 26813), the EPA proposed to approve the following rules and rule rescissions into the Arizona SIP.

TABLE 1—RULES TO BE RESCINDED

Rule No.	Title	Local adoption date	SIP approval date	FR citation
22	Permit Denial-Action-Transfer-Expiration-Posting-Revocation-Compliance.	August 12, 1971	July 27, 1972	37 FR 15080.
28	Permit Fees	March 8, 1982	June 18, 1982	47 FR 26382.
32 G	Other Industries	October 1, 1975	April 12, 1982	47 FR 15579.
32 H	Fuel Burning Equipment for Producing Electric Power (Sulfur Dioxide).	October 1, 1975	April 12, 1982	47 FR 15579.
32 J	Operating Requirements for an Asphalt Kettle.	June 23, 1980	April 12, 1982	47 FR 15579.
32 K	Emissions of Carbon Monoxide	June 23, 1980	April 12, 1982	47 FR 15579.
41 A	Monitoring	August 12, 1971	July 27, 1972	37 FR 15080.
41 B	Monitoring	October 2, 1978	April 12, 1982	47 FR 15579.
42	Testing and Sampling	August 12, 1971	July 27, 19.72	37 FR 15080.
74 C	Public Notification	June 23, 1980	April 12, 1982	47 FR 15579.

TABLE 2—SUBMITTED RULES

Rule No.	Title	Local revision date	EPA submission date
320 section 306	Odors and Gaseous Air Contaminants, Limitation—Sulfur from Other Industries.	July 2, 2003	November 13, 2023.

TABLE 2—SUBMITTED RULES—Continued

Rule No.	Title	Local revision date	EPA submission date
320 section 307	Odors and Gaseous Air Contaminants, Operating Requirements—Asphalt Kettles and Dip Tanks.	July 2, 2003	November 13, 2023.

We proposed to approve the rescission of the rules in table 1, and the inclusion of the rules in table 2, because we determined that the rule rescissions in table 1 and rule replacements in table 2 comply with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received two comments. The comments discussed Arizona's legalization of recreational marijuana and its impact on air quality. The EPA has determined that the comments fail to raise issues germane to the proposed recission and/or replacement of local rules from the MCAQD portion of the Arizona SIP. Therefore, we have determined that these comments do not necessitate a response, and the EPA will not provide specific responses to the comments in this notice.

III. EPA Action

No comments were submitted that change our assessment of the rule recissions as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the rule recissions in table 1, and the inclusion of the Rules in table 2 into the Arizona SIP. The recissions will remove the previously approved Rule 22, Rule 28, Rule 32 sections G, H, J, and K, Rule 41, Rule 42 and Rule 74 section C from the SIP. Rule 320, section 306 will replace Rule 32, section G and Rule 320, section 307 will replace Rule 32, section J in the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. The EPA is also finalizing deletion of rules that were previously incorporated by reference from the applicable Arizona SIP. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Maricopa Rule 320 section 306,—Odors and Gaseous Air Contaminants, Limitation—Sulfur from Other Industries, and Rule 320 section 307, Odors and Gaseous Air Contaminants, Operating Requirements—Asphalt Kettles and Dip Tanks, revised on July 2, 2003, which regulates sulfur and visible emissions from asphalt kettle or dip tanks. The EPA is also finalizing the incorporation by reference for the rescission of the Arizona rules described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by the EPA for removal from the SIP, and will be incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval in the next update to the SIP compilation.[1] The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. 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 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.

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.''

[1] 62 FR 27968 (May 22, 1997).

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 21, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 29, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons stated in the preamble, EPA amends part 52, chapter I, Title 40 of the Code of Federal Regulations 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 D—Arizona

■ 2. In § 52.120, in paragraph (c), amend ''Table 4 to Paragraph (c)—EPA-Approved Maricopa County Air Pollution Control Regulations'' by:

■ a. Removing the entries for ''Rule 22,'' ''Rule 28,'' ''Rule 32 (Paragraphs G, H, J, and K only),'' ''Rule 41 (Paragraphs A and B only),'' ''Rule 42,'' and ''Rule 74 (Paragraph C only)''; and

■ b. Adding entries for ''Rule 320 section 306'' and ''Rule 320 section 307'' after the entry for ''Rule 318''.

The additions read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

TABLE 4 TO PARAGRAPH (c)—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Post-July 1998 Rule Codification				
*	*	*	*	*
Regulation III—Control of Air Contaminants				
*	*	*	*	*
Rule 320 section 306	Odors and Gaseous Air Contaminants, Limitation—Sulfur from Other Industries.	July 2, 2003	August 20, 2024, [INSERT **FEDERAL REGISTER** CITATION].	Submitted on November 13, 2023.
Rule 320 section 307	Odors and Gaseous Air Contaminants, Operating Requirements—Asphalt Kettles and Dip Tanks.	July 2, 2003	August 20, 2024, [INSERT **FEDERAL REGISTER** CITATION].	Submitted on November 13, 2023.
*	*	*	*	*

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[FR Doc. 2024–17500 Filed 8–19–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–31; FCC 24–76; FR ID 237079]

Addressing the Homework Gap Through the E-Rate Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) takes steps to modernize the E-Rate program to meet the evolving needs of schools and libraries around the country by allowing for the distribution of Wi-Fi hotspots and services to students, school staff, and library patrons for off-premises use.

DATES: Effective September 19, 2024, except for the amendments to §§ 54.504 and 54.516, at amendatory instructions 4 and 9, respectively, which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections.

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Molly O'Conor, Telecommunications Access Policy Division, wireline competition Bureau, at *Molly.OConor@fcc.gov* or (202) 418–7400 or TTY: (202) 418–0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order (*Order*) and Further Notice of Proposed Rulemaking (*FNPRM*) in WC Docket No. 21–31; FCC 24–76, adopted on July 18, 2024 and released on July 29, 2024. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-24-76A1.pdf.*

Introduction

Technology has become an integral part of the modern classroom and receiving an education, especially in the recent past, and the barrier to accessing such technology puts individuals at a significant disadvantage to their peers and often prevents educators from being able to teach. In the Report and Order (*Order*), the Commission take steps to modernize the E-Rate program to meet the evolving needs of schools and libraries around the country by allowing for the distribution of Wi-Fi hotspots and services to students, school staff, and library patrons for off-premises use.

Since its inception more than 25 years ago, the Commission's E-Rate program has supported high-speed, affordable internet services to and within school and library buildings, and has been instrumental in providing students, school staff, and library patrons with access to the essential broadband services that are required for next-generation learning. Recognizing the Commission's responsibility to ensure the E-Rate program evolves with the educational needs of students and library patrons, the Commission has frequently modernized the program to reflect the changes in education and technology, including by providing more equitable access to funding for Wi-Fi networks in schools and libraries. Recently the Commission has seen significant advances in technology that have changed not only the way schools and libraries provide educational resources, but also the way students, school staff, and library patrons access such resources. In particular, an internet connection has become an essential requirement for learners to access tasks that are vital to obtaining an education, including homework assignments, online classes, library materials, continuing education, and career and government applications.

The need for internet connectivity beyond the campus boundaries was further underscored by nationwide school and library closures beginning in 2020 as a result of the COVID–19 pandemic, when most educational activities were unexpectedly forced to shift online overnight. During this time, thanks to the creativity and resourcefulness of schools and libraries around the country, many students, school staff, and library patrons that would have been caught on the wrong side of the digital divide or the ''Homework Gap''—*i.e.,* students unable to fully participate in educational opportunities because they lack broadband connectivity in their homes—were able to obtain a broadband connection provided by their local school or library. Many schools and libraries used funding provided through the congressionally-appropriated Emergency Connectivity Fund (ECF) program to purchase connected devices, Wi-Fi hotspot devices, broadband connections, and other eligible equipment and services for students, school staff, and library patrons in need, to use at a variety of locations, including locations other than schools and libraries, during the pandemic. Notably, schools and libraries found success in establishing ECF-funded Wi-Fi hotspot lending programs to provide the hotspot equipment and monthly mobile wireless broadband services needed to connect individuals who otherwise lacked the internet access needed to fully participate in remote learning.

Even with schools and libraries reopening and returning to in-person instruction, the need for internet connections outside of the school or library buildings to fully engage in education remains, and schools and libraries are seeking to continue funding these valuable lending programs to keep their students, school staff, and library patrons connected. That is why the Commission adapts the E-Rate program to recognize these needs. Building on its experiences in the ECF program and the comments the Commission received in response to the *Notice of Proposed Rulemaking* (*NPRM*), 88 FR 85157, December 7, 2023, the Commission adopts a budget mechanism to allow for the equitable distribution of Wi-Fi hotspots and services to students, school staff, and library patrons. These rules are intended to be another step in updating the E-Rate program to reflect the realities of many schools and libraries by lending Wi-Fi hotspots and services through community and school libraries across the country so that students, school staff, and library patrons with the greatest need can be connected and learn without limits.

Discussion

In the *Order,* the Commission takes steps to modernize the E-Rate program to ensure that schools and libraries across the nation have the tools necessary to connect their students, school staff, or library patrons who have fallen onto the wrong side of the digital divide or the Homework Gap. First, the Commission permits schools and libraries to purchase Wi-Fi hotspots and services that they can lend to students, school staff, and library patrons for off-premises use and direct the Wireline Competition Bureau (Bureau) to make the services and equipment eligible as part of the funding year 2025 eligible services list proceeding. Second, relying on the successes of and lessons learned from the ECF program, as well as the Wi-Fi hotspot lending programs established by schools and libraries with ECF support, the Commission establishes a budget mechanism to set a limit on the amount of support that an eligible school or library can request for Wi-Fi hotspots and services that can be loaned to their students, school staff, and library patrons, thereby allowing schools and libraries the flexibility to target those with the greatest need in their respective populations. Next, the Commission also remains committed to supporting the connectivity needs of school and library buildings by prioritizing funding for these off-premises services after on-premises-related funding requests. Mindful of its duty to be a responsible steward of limited universal service resources, the Commission also adopts safeguards to ensure the E-Rate funds are used for their intended purpose. Finally, the Commission reaffirms its conclusions that the obligations of the Children's internet Protection Act (CIPA) apply if the school or library receives E-Rate support for internet service, internet access, or network connection services or related equipment, including Wi-Fi hotspots.

Based on the record and consistent with its authority pursuant to section 254(h) of the Communications Act, the Commission adopts its proposal to permit schools and libraries to receive E-Rate support for Wi-Fi hotspots and services to be used off-premises by students, school staff, and library patrons. Although the E-Rate program has not historically provided support for most off-premises uses of E-Rate-

supported services, the Commission agrees with commenters that today's educational environment has substantially changed since the advent of the E-Rate program in 1997. Namely, the increasing shift to digital learning due to evolving technologies as well as pandemic-related changes has resulted in internet connectivity becoming a necessity to being able to fully participate in modern education for students, school staff, and library patrons alike.

For schools, the pandemic highlighted the digital divide, leaving those students without access to reliable home internet unable to access educational resources, participate in remote learning, or connect with teachers. Smith Bagley, Inc. (SBi) described how emergency funding during the pandemic increased educational opportunities for Tribal students by focusing on digital inclusion and introducing digital learning tools that have been available to urban and suburban communities for years, allowing them to connect to schools on days they would otherwise miss and allowing teachers to reach students that would otherwise be left disconnected. The digital divide between students with access to broadband at home and those without exacerbates existing inequalities, particularly for certain communities—such as those in rural or economically-disadvantaged areas. Commenters note that stable internet connectivity at home is essential to ''educational opportunity, equity, and achievement'' with digital learning tools enabling ''more expansive, up-to-date content, the inclusion of educational videos, and effective online collaboration.'' Others explain the reliance on online digital resources allows learners ''to engage with supplemental educational materials, complete homework assignments, and connect with one another,'' which leaves ''[s]tudents and staff that are unable to access the connected classroom . . . at a significant disadvantage.'' A 2021 report observed that ''[h]istorically students caught in the digital divide have lower academic achievement with a significant impact on lifetime earnings.''

Likewise, for libraries, providing free, high-speed access to the internet is critical to many of the services libraries provide, particularly for disadvantaged communities. Library services increasingly include virtual offerings. For example, libraries allow patrons to access digital resources remotely, including reserving or renewing books, accessing digital collections and e-materials, providing community support resources, and even offering support to library patrons who are educators or students, making these digital resources available to library patrons at the moment they need them. Additionally, Wi-Fi hotspot lending programs that provide remote access to the internet for library patrons are both successful and in high demand. For instance, one commenter explains that at the Chicopee Public Library, Wi-Fi hotspots are checked out ''every day to people who have no other way of accessing this service without putting themselves in danger of being unable to afford basic necessities.''

The Commission modernizes the E-Rate program to address this digital inequity that leaves some students, school staff, and library patrons unable to fully participate in schoolwork or access library resources. The Commission further recognizes how learning is no longer confined to the physical school or library building during regular operating hours, and how libraries and schools often serve to fill the educational and connectivity gap for their students, school staff, and library patrons who lack access to the internet. Additionally, based on its experiences through the ECF program, the Commission further seeks to recognize the utility of Wi-Fi hotspots as an easily sourced and affordable means of providing connectivity for schools and libraries and acknowledge the commenters' countless examples of how Wi-Fi hotspot lending programs established with ECF funding have benefitted communities and students around the nation. Now, numerous libraries and schools are faced with the difficult decision to reduce the number of Wi-Fi hotspots available for circulation or start charging fees, not because of lack of demand, but because of lack of available funding. This has only been further exacerbated by the recent loss of Affordable Connectivity Program (ACP) benefits by many low-income households across the country. As such, the Commission extends eligibility to provide eligible schools and libraries with much-needed assistance in getting the students, school staff, and library patrons with the greatest need connected via Wi-Fi hotspots and services that can be used off-premises.

Eligible Equipment & Services. The Commission adopts the proposed definitions to permit Wi-Fi hotspots and mobile wireless internet services as eligible for E-Rate support. In the *NPRM,* the Commission sought comment on what specific equipment and services should be deemed eligible for the off-premises use of Wi-Fi hotspots and mobile wireless internet services. Specifically, the Commission sought comment on adopting the ECF program's definition of a Wi-Fi hotspot (*i.e.,* ''a device that is capable of (a) receiving advanced telecommunications and information services; and (b) sharing such services with a connected device through the use of Wi-Fi'') and limiting service eligibility to commercially available mobile wireless internet services that can be supported by and delivered with such Wi-Fi hotspots. Commenters are largely supportive of making off-premises uses eligible for E-Rate funding and, despite also requesting additional equipment and services be made eligible, were supportive of the proposed definitions of Wi-Fi hotspots and mobile wireless internet services that can be used off-premises. Based on the record, the Commission adopts the proposed definitions for the equipment and services eligible for support in the E-Rate program and direct the Bureau to add Wi-Fi hotspots and mobile wireless internet services that can be used off-premises as eligible services as part of the funding year 2025 eligible services list proceeding.

With respect to eligible equipment, the Commission adopts definitions of ''Wi-Fi'' and ''Wi-Fi hotspot'' in its rules that are based on the definitions adopted by it in the ECF program. Specifically, the Commission defines ''Wi-Fi'' as ''wireless networking protocol based on Institute of Electrical and Electronics Engineers standard 802.11'' and the Commission defines ''Wi-Fi hotspot'' as ''a device that is capable of receiving advanced telecommunications and information services, and sharing such services with another connected device through the use of Wi-Fi.'' The Commission finds that this decision is both supported by the record and by its own experiences successfully providing connectivity to students, school staff, and library patrons delivered by Wi-Fi hotspots through the ECF program. However, the Commission also wishes to acknowledge that these terms may have other accepted meanings within the communications industry. For example, Intel defines ''Wi-Fi hotspot'' to mean ''a physical location where individuals can access the internet wirelessly through a wireless local area network (WLAN) using Wi-Fi technology.'' The Commission concludes that this definition would be overly broad for these purposes, as the function described can be provided by many different types of devices and may permit unintended scenarios such as funding public Wi-Fi hubs in a public

park or a community center, which is beyond the scope of its goal to provide connectivity to individual students, school staff, or library patrons caught in the Homework Gap or digital divide. Therefore, for the purposes of the E-Rate program, the definition the Commission adopts for ''Wi-Fi hotspot'' means a device (sometimes referred to as a ''mobile hotspot'' or ''portable hotspot device'') that is intended to provide Wi-Fi connectivity to a hotspot user as its sole function. Additionally, the Commission limits the capability of a sole purpose Wi-Fi hotspot to devices that: (1) are portable; and (2) are a single device (*i.e.,* not a set of linked devices). Finally, these Wi-Fi hotspots must be for use with a commercially available mobile wireless internet service, rather than for use with Citizens Band Radio Service (CBRS) or other private network services.

The Commission declines to make other multi-functional devices that can support Wi-Fi eligible for E-Rate support. Thus, the Commission finds such multi-functional devices, *e.g.,* smartphones, PCs, notebooks, tablets, customer premises equipment, routers or switches, and wireless access points, etc., are not eligible. In the *ECF Order,* 86 FR 29136, May 28, 2021, the Commission also found it unnecessary to support costly smartphones used as Wi-Fi hotspots, when much less expensive hotspot devices can serve the same purpose. The Commission finds this determination remains true today; and therefore, the Commission limits E-Rate support to sole function Wi-Fi hotspot devices. Additionally, with respect to the requests to support end-user devices like laptops or tablets, the Commission concludes that this equipment remains ineligible for E-Rate support, consistent with its previous decisions to decline support for ''computers and other peripheral equipment'' based on its finding that only equipment that is an essential element in the transmission of information is eligible (*e.g.,* internal connections) for E-Rate support. Similar to its reasoning for making smartphones ineligible, the Commission also finds it unnecessary to take on the costly expenses of laptops or tablets with built-in wireless connections, when less expensive, sole purpose Wi-Fi hotspots are capable of delivering the same service. The Commission also declines to permit applicants to request the mobile wireless services delivered to broadband-enabled end user devices (*e.g.,* laptops, tablets). While the Commission recognizes that there are some benefits to students using these devices, the Commission is concerned that it adds unneeded complexity in its review of the services eligibility, particularly in trying to ensure these E-Rate-supported services are targeted to students with need, rather than just to students who need a school-assigned tablet or laptop.

With respect to mobile wireless internet services, the Commission limits the use of services to those that can be supported by and delivered with Wi-Fi hotspots provided to an individual user. The Commission appreciates the suggestions of several commenters who urge it to also expand eligibility beyond just Wi-Fi hotspots and mobile wireless services. Citing concerns that limiting eligibility to Wi-Fi hotspots and mobile wireless services would be contrary to the statutory requirement in section 254(h)(2)(A) of the Communications Act to establish ''competitively neutral'' rules, these commenters argue that the Commission should also permit E-Rate support for other off-premises technologies, including: fixed wireless connections and the related equipment, private 5G/LTE networks, CBRS and television white space (TVWS), fiber, and network expansion or construction. The Commission acknowledges these commenters' concerns and recognize that connectivity provided by Wi-Fi hotspots is not a one-size-fits-all solution. However, in taking this action, the Commission remains focused on the statutory obligation to establish rules that enhance access to the extent it is ''economically reasonable.'' At this time, the Commission does not possess the information necessary to make a broader determination, nor did any commenters sufficiently analyze the feasibility of broadening the scope of eligibility. In particular, the Commission does not have sufficient data to rely on to establish funding caps on the equipment or service costs associated with other solutions or to establish an overall budget like the one adopted for Wi-Fi hotspots herein. At this time, the Commission establishes caps in this program on both services and equipment in order to simplify review, aid administration, and constrain costs. Commenters provided examples of costs for existing network builds, but not in a way that would allow the Commission to establish caps or assess cost-effectiveness on costs of access points, antennas, switches, radios, customer premises equipment, backhaul, installation, RF design and planning, engineering, licenses, maintenance, software updates, and other miscellaneous charges. For example, while some stakeholders urge the Commission to permit E-Rate support for applicant-enabled off-campus networks, and provide some analysis for the potential cost efficiency of such solutions, they also acknowledge that these alternatives that would require much higher up-front deployment costs and rely on reaching a large number of students, school staff, and library patrons. Even if constrained by the overall budgets adopted, the Commission is concerned that these alternative solutions would be challenging to review for cost-effectiveness by applicants and the Administrator without additional data and analysis. In contrast, the Commission's experiences funding Wi-Fi hotspots and mobile wireless internet services through the ECF program have demonstrated that this particular solution can reasonably be supported. The Commission therefore finds that taking this incremental step toward supporting the off-premises educational needs of its nation's students, school staff, and library patrons is not only in the public interest, but it is also within its legal authority. As such, the Commission limits eligibility to commercially available mobile wireless internet services and the Wi-Fi hotspots needed to deliver such services to an individual user.

Per-User Limits. Mindful of the importance of maximizing the use of limited funds, and consistent with the limitation adopted in the ECF program, the Commission adopts a rule to prohibit an eligible school or library from applying for more than one Wi-Fi hotspot provided for use by each student, school staff member, or library patron in the E-Rate program. The *NPRM* sought comment on whether the Commission should impose per-user limitations on eligible Wi-Fi hotspots and services. The ECF program limited support to one Wi-Fi hotspot device per student, school staff, or library patron. Many commenters expressed support for this approach. In adopting a per-user limitation on these equipment and services, the Commission seeks to equitably distribute and maximize the use of limited funds and the number of students, school staff, and library patrons served.

Minimum Service Standards. The Commission declines to adopt minimum service standards for Wi-Fi hotspots and services used off-premises at this time. While the Commission understands commenters' requests to establish limits related to data and quality of service, it finds that adopting minimum service standards runs the risk of penalizing the students, school staff, and library patrons in places

where slower speed, data capped, and/or high latency services are currently the only affordable options. Furthermore, the Commission agrees with commenters' views that schools and libraries are in the best position to know what is available and sufficient for their students', school staff members', and library patrons' remote learning needs. The Commission expects that schools and libraries will make the best decisions to meet the remote learning needs of their students, school staff, and library patrons.

Demonstrating Cost-Effective Purchases of Wireless Services. In making the off-premises use of Wi-Fi hotspots and mobile wireless services eligible, the Commission concludes that the E-Rate program's current requirement that applicants demonstrate that mobile wireless services are more cost-effective than internal broadband services is not applicable to off-premises use. The Commission adopted that requirement because schools and libraries often require substantial bandwidth connections to meet their on-premises connectivity needs, which in turn would require them to seek E-Rate support for large numbers of data plans to meet those needs that may be more expensive than other methods of providing internal broadband access for mobile devices at the school or library. Here, the Commission solely makes the off-premises use of mobile wireless services eligible at this time; and thus, it finds no need to impose any such requirements for applicants seeking support for the off-premises use of wireless internet service and the Wi-Fi hotspots needed to deliver the services. In the event that the off-premises use of additional services and equipment becomes eligible in the future, the Commission will reconsider this approach and whether other requirements may be necessary. The Commission also reminds applicants seeking support for the off-premises use of wireless internet services and Wi-Fi hotspots that they remain subject to the E-Rate program's competitive bidding rules when seeking support for these services and equipment, including the requirement that they select the most cost-effective service offering, using price of the eligible equipment and services as the primary factor considered.

Implementation. The Commission directs the Bureau to make Wi-Fi hotspots and internet services eligible for E-Rate funding as part of the funding year 2025 eligible services list proceeding. Additionally, in implementing these changes, the Commission reaffirms the delegation of authority to the Bureau to interpret its rules and otherwise provide clarification and guidance regarding any ambiguity that may arise to ensure that support for these services provided to schools and libraries further the goals it has adopted for the E-Rate program. The Commission also directs the Universal Service Administrative Company (USAC), the Administrator of the E-Rate program, in coordination with and under the oversight of the Bureau, to issue further guidance and training on administrative and related processes for requesting support for the off-premises use of Wi-Fi hotspots and services.

Wi-Fi Hotspot Lending Program Mechanism. The Commission now adopts a budget mechanism to allow for the equitable distribution of Wi-Fi hotspots and services to students, school staff, and library patrons. In doing so, the budget mechanism will allow eligible schools and libraries to develop hotspot lending programs, while setting a limit on the amount of support that an applicant can request for Wi-Fi hotspots and services. In the *NPRM,* the Commission sought comment on how to establish a Wi-Fi hotspot program, recognizing that there are insufficient E-Rate funds to support a Wi-Fi hotspot and recurring service for every student, school staff member, and library patron across the nation. The *NPRM* also asked whether a per-student limit, like the one used for category two funding budgets, could help ensure support was distributed equitably to schools and libraries. The *NPRM* sought administratively feasible ways to prioritize support to students and library patrons without sufficient internet access. In response, several commenters described the challenges to the approaches used in the ECF program and sought greater flexibility for schools and libraries. The Commission also looks to lessons learned from its administration of the ECF program in addressing these challenges, with particular focus on program integrity. With these considerations in mind, the Commission adopts a budgeted approach based on a mechanism provided in the comments to create a targeted lending program that allows eligible schools and libraries to be able to request a limited number of Wi-Fi hotspot devices and services, if they have need for them, within a pre-discount budget similar to the E-Rate program's category two budgets. This approach takes into account the applicant size, using information that is already collected as part of the category two budget process, and also relies on the E-Rate program's historic focus on poverty and rurality by using the applicants' discount rates to calculate a Wi-Fi hotspot budget. Schools and libraries at higher discount rate levels will be eligible to request and receive a greater amount of E-Rate support for Wi-Fi hotspot devices and services than schools and libraries at lower discount rate levels.

In establishing a budgeted approach to the lending program mechanism, the Commission expects that the limited number of available Wi-Fi hotspots will more naturally be targeted to students, school staff, or library patrons with the most need. The budget mechanism will allow schools and libraries to target the appropriate individuals that lack broadband access; therefore, the Commission finds it does not need to adopt a survey requirement or other document collection requirement. Specifically, except in the one occasion discussed in this document, this limited lending approach will not require applicants to document whether a particular student, school staff member, or library patron has ''unmet need'' as the Commission defined that term in the ECF program, relying instead on establishing a hotspot budget to prevent applicants from over-purchasing Wi-Fi hotspots and services and permitting applicants to use their judgment to determine the need in their own localities within those limits. Instead, to ensure that use of the hotspot lending program is consistent with its objectives, the Commission will require schools and libraries to adopt and provide notice to the Wi-Fi hotspot recipients of an acceptable use policy (AUP) that highlights that the goal of the hotspot lending program is to provide broadband access to students and library patrons who need it. In combination with the applicant's requirement to pay its non-discounted share of costs, schools and libraries will be incented to right-size their Wi-Fi hotspot and service requests. However, the details of such a hotspot lending program—such as length of lending periods and how to target the appropriate students and library patrons—will be left to the applicant to determine and tailor the hotspot lending program to their local needs. For these reasons, the Commission can streamline the procedures that caused applicants the most challenges in the ECF program, benefiting applicants, service providers, and the Administrator.

The Commission finds adopting this approach to be a reasonable mechanism for limiting how many Wi-Fi hotspots and connections can be requested by an applicant. Specifically, applicants will be limited to a budget based on their

full-time student count or library square footage, and their category one discount rate. In doing so, the Commission establishes bright line limits that are fair and equitable—allowing eligible schools and libraries to request Wi-Fi hotspots and service, but limiting the pool of Wi-Fi hotspots and service lines an applicant can request based on its discount rate and school or library size. This will allow schools and libraries to request funding for a Wi-Fi hotspot lending program that can provide wireless internet service to its students, school staff, and library patrons when it is needed most. The Commission prohibits one situation based on its experience in the ECF program—using Wi-Fi hotspots as part of a one to one (1:1) hotspot initiative, where every student receives a Wi-Fi hotspot. The Commission recognizes that even under the limiting mechanism, applicants might have a sufficient Wi-Fi hotspot budget that they could try to focus them all to a 1:1 initiative at a single low-income school in a district or a particular grade (*e.g.,* all juniors). Generally, applicants are prohibited from seeking E-Rate support for a 1:1 hotspot initiative like this and will be required to certify on the FCC Form 471 application that the hotspots and service will not be used for a 1:1 hotspot initiative. If E-Rate-funded Wi-Fi hotspots are used as part of a 1:1 initiative—either in practice by providing all of the devices to a single school in the district or in conjunction with Wi-Fi hotspots funded via other sources, applicants must document clearly (*i.e.,* individual survey results or attestations) that each individual student needed a Wi-Fi hotspot, in accordance with the AUPs, and may not rely on general or estimated findings about income levels. Funding disbursements for applicants without specific documentation to support a 1:1 Wi-Fi hotspot initiative will be subject to denial and/or recovery.

Wi-Fi Hotspot and Services Funding Caps. The Commission first adopts pre-discount funding caps on the amounts that can be requested for services and hotspot equipment in the E-Rate program. Specifically, the Commission adopts a pre-discount $15 per month limit on recurring mobile wireless internet service and a pre-discount $90 per Wi-Fi hotspot limit, based on the median cost of monthly services and Wi-Fi hotspots purchased in the ECF program. Taxes and State electronic waste fees are not included in the cap, while other reasonable costs such as delivery fees, activation, and configuration costs are included in the capped amounts. All taxes and fees should be separately identified on invoices and requested on a separate funding line. In the *NPRM,* the Commission sought comment on cost control mechanisms, including funding caps on Wi-Fi hotspots or services. Some commenters support a cap on the Wi-Fi hotspots and services, with some suggesting that the averages from the ECF program would be an appropriate place to start. Others disagreed, suggesting that competitive bidding and the applicants' non-discounted share of costs requirement would be sufficient, with some cost-effectiveness checks during the Program Integrity Assurance (PIA) review process.

On balance, the Commission agrees with commenters suggesting that funding caps will more effectively ensure equitable distribution of Wi-Fi hotspots, drive more cost-effective purchasing within the E-Rate program, and reduce the likelihood that these costs become unsustainable. The Commission also expects that clear funding caps will lead to a more streamlined review of these funding requests, simplifying administration of these requests. For example, the Commission disagrees with commenters that unreasonable costs are easily taken up in the PIA reviews, when the data the Commission have from the ECF program and the record in this proceeding shows a large variation in costs depending on service provider, technology type, and how contracts are structured. Setting funding caps will also reduce concerns about applicants selecting multiple service offerings in instances where a single service provider will not be able to cover the entire coverage area. In these instances, the program's competitive bidding rules would otherwise be less effective in ensuring cost-effective purchasing when applicants may need multiple service providers in order to provide coverage options in various geographic parts of the student or library patron community. By using a funding cap, applicants that select multiple service providers will still be capped at a cost-effective price, even if they require selection of service offerings that may be more expensive.

Consistent with the ECF program, applicants are permitted to select a Wi-Fi hotspot or service that costs more than the funding caps, but E-Rate commitments will not exceed the funding caps. The Commission expects the E-Rate program's competitive bidding rules to aid applicants in selecting the most cost-effective service offerings, but it also directs USAC to examine costs that do not appear to be cost-effective, based upon other costs within the program or other commercially available offerings. Although the Commission is adopting funding caps for recurring services and Wi-Fi hotspots to help control overall costs to the E-Rate program, the Commission expects applicants to request E-Rate support based on actual, commercial-based costs. For example, an applicant cannot request funding at the cap levels, but purchase Wi-Fi hotspots and recurring services at lower costs and allow service providers to keep the difference in costs as their profit or windfall. The Commission will also require service providers to certify that the costs of the Wi-Fi hotspots do not exceed commercial value. USAC is permitted to modify or reduce such funding requests, as appropriate, to reflect the actual, market-based price of commercially-available Wi-Fi hotspots and to seek recovery in the event of a later determination that the E-Rate funded costs were higher than the actual costs of the requested Wi-Fi hotspots and/or recurring services.

Calculating Budgets. Next, the Commission establishes a formula to calculate a three-year pre-discount Wi-Fi hotspot and service budget, limiting the amount of E-Rate support that can be requested by an applicant for Wi-Fi hotspots and recurring service over three funding years. E-Rate Central suggests adopting a formula modeled after the category two budgets that limits applicants to 20 hotspots per 100 students and 5.5 hotspots per 1,000 library square feet, adjusted by discount rate. Using this proposed formula and multiplying the result by the three-year cost of the funding caps ($630), applicants will calculate a three-year Wi-Fi hotspots and service budget. This is the maximum amount of pre-discount funding permitted for Wi-Fi hotspots and/or service over three funding years. E-Rate Central proposed limiting the quantity of Wi-Fi hotspots and services, but there are important benefits to calculating a maximum Wi-Fi hotspot budget for several reasons. One, a budget will allow schools and libraries greater flexibility in spending by allowing applicants to request funding for the most appropriate mix of Wi-Fi hotspots and service, depending on their needs. Two, a budget will provide applicants better incentives to make cost-effective purchases by permitting them to purchase higher quantities if there are lower costs. Three, budgets will also facilitate use of existing Wi-Fi hotspots purchased through the ECF program or with other Federal funds that are still functional by permitting

applicants to purchase higher quantities of service requests, if needed. Applicants that select lower-cost Wi-Fi hotspots, or that find ways to maintain Wi-Fi hotspots for longer, will be able to request a larger quantity of E-Rate supported hotspots or lines of service depending on their individual needs and budget.

$$\text{Independent School or District Budget} = \left[\text{student count} \times \frac{20 \text{ hotspots}}{100 \text{ students}} \times \text{C1 discount rate}\right] \times \$630$$

$$\text{Library or Library System Budget} = \left[\text{square feet} \times \frac{5.5 \text{ hotspots}}{1000 \text{ square feet}} \times \text{C1 discount rate}\right] \times \$630$$

Note: The value in the brackets above for both the schools and libraries budgets is rounded up to the nearest ten.

Calculating Independent School and School District Hotspot Budgets. Independent schools and school district applicants will calculate their Wi-Fi hotspot and service budgets by multiplying their student counts by 20% (*i.e.,* 20 hotspots per 100 students), and adjusting by their category one discount rates. This number is rounded up to the nearest ten. The applicant then multiplies that rounded number by $630 to determine the three-year budget. For example, an independent school with 500 students and a 90% discount rate would have a three-year, pre-discount budget of $56,700, while a school district with 500 students and a 40% discount rate would have pre-discount budget of $25,200. Unlike the ECF program, these limits will reduce the number of hotspots that could be requested from the start, requiring schools and districts to make choices about how to distribute and prioritize access for students with the greatest need or set lending terms that allow students to access devices at times when need is high. To the extent that the formula needs adjustments, the Commission provides a means for future changes as discussed, but expect that the benefits of a single formula applicable to all school applicants will be simpler and more administrable than attempting to find a precise number for different types of applicants and will greatly decrease burdens on applicants and the Administrator than if different formulas were adopted dependent upon type of school applicant.

Calculating Independent Libraries and Library System Hotspot Budgets. Likewise, independent libraries and library systems would calculate their Wi-Fi hotspots and service budgets using their square footage, allowing 5.5 devices per 1,000 square feet, adjusted by their category one discount rates. This number is rounded up to the nearest ten. The applicant then multiplies that rounded number by $630 to determine the three-year pre-discount budget. For example, an independent library of 10,000 square feet at the 90% discount rate would have a three-year pre-discount budget of $31,500, while a library system with 100,000 square feet and a 90% discount rate would have a three-year pre-discount budget of $315,000. Smaller libraries would thus be eligible for at least 10 devices and services lines, while larger library systems would be eligible for more. Like schools, the Commission adopts this formula in order to allow libraries to plan for and determine how and whether to request E-Rate support for a library hotspot lending program. The Commission adopts the factor suggested in the comments, which is roughly based on the ratios developed in the category two budgets for schools and libraries, but also adopt a means to adjust the formula in the future should the library factor be insufficient for library patron access, particularly in areas of the country where there may be higher need, but small libraries, such as rural-remote areas.

For purposes of the calculation, full-time student count and square footage figures will be calculated at the district-wide or library system level in order to make use of existing information collections and procedures. Independent schools may apply using entity-level student counts. In doing this, the Commission seeks to use data that is already collected on the FCC Form 471 application for the applicants' category two budgets. Similarly, the Commission will allow an applicant to rely on a validated category two student count or square footage figure for purposes of the Wi-Fi hotspot limiting mechanism. Relying on information already collected and validated for category two purposes will reduce burdens on applicants and the Administrator. For funding year (FY) 2025 through FY 2027, schools and school districts with a validated category two student count could rely on that number (and similarly, libraries with a validated square footage), but would need to revalidate student counts in the next three-year Wi-Fi hotspot funding cycle (*i.e.,* FY 2028 through FY 2030).

The Commission also will use fixed three-year budget cycles, after which the budgets will reset, beginning with funding years 2025 through 2027. Based on the experience with category two budgets, the Commission believes a fixed cycle will reduce applicant confusion and simplify administration. Entities are allowed to spread out their requests for Wi-Fi hotspots and services over the three-year timeframe, as long as the total pre-discount amount does not exceed the budget over the three funding years. Entities may request support for Wi-Fi hotspot service even if the associated Wi-Fi hotspots were not directly funded under the new E-Rate rules. However, applicants may not request more than 45% of its three-year budget in any year. The Commission finds this valuable in order to prevent applicants with high numbers of existing Wi-Fi hotspots from simply using the entire budget in a single funding year. The Commission will also require that such services must be competitively bid prior to requesting E-Rate support pursuant to the program's competitive bidding rules.

The Commission emphasizes that the hotspot budget represents the maximum pre-discount amount an applicant may request across three funding years, rather than an allocation of funding for Wi-Fi hotspots and service lines for which an applicant is entitled reimbursement. Applicants should evaluate whether there is need in their own school and library communities and what can be effectively used and tracked in compliance with program

rules. Applicants will also continue to be subject to the E-Rate program rules requiring that schools and libraries are responsible for paying the non-discounted share of the costs. The intent of this hotspot lending program is for the Wi-Fi hotspots to be available for loan to and for use by students, school staff, or library patrons without sufficient broadband access at home and other off-campus locations for educational purposes. Applicants and service providers will be subject to E-Rate program rules, certifications, and other requirements designed to protect program integrity, as discussed.

Applicants may not request funding for Wi-Fi hotspots for future use or to be stored in case of an emergency, and the Commission will not allow applicants to purchase Wi-Fi hotspots to store in case of theft, loss, or breakage. Each Wi-Fi hotspot must be associated with a line of service. The Commission recognizes the concerns from commenters about replacing Wi-Fi hotspots, but based on lessons from the ECF program, determine that a streamlined approach would be simpler to administer, provide clarity for applicants, and ensure limited E-Rate program funds are used appropriately. In the event of loss or breakage, applicants may purchase extra devices with other sources of funding to use with the E-Rate-supported service or they can request replacement devices paired with lines of service in the next funding year if they have not exhausted their budgets. The Commission cautions, however, that applicants that do not replace lost or broken hotspots must work with their service providers to discontinue the associated service within a reasonable amount of time of becoming aware of the issue (*e.g.,* 30 days). In order to ensure the E-Rate program is not paying for services that sit unused for these or other reasons, the Commission will require service providers to exclude or waive any associated early termination fees for the services to Wi-Fi hotspots being funded with E-Rate support that are lost, broken, or unused and can no longer be distributed to students, school staff, or library patrons. The Commission reminds applicants that they must document information about lost or broken equipment in the asset inventory containing details about each Wi-Fi hotspot.

In combination, the Commission expects this three-year pre-discount budget mechanism and the funding caps to be effective in ensuring that schools and libraries with students, school staff, and library patrons with need have access to E-Rate funding to effectively set up and request funding for hotspot lending programs, while protecting the Universal Service Fund from overspending and reducing administrative burdens, as compared to the ECF program. At the same time, the Commission is cognizant that a one-size formula for limiting hotspot requests may not fit every school and library and may need to be adjusted if it is impacting program participation. As such, the Commission delegates to the Bureau, working with the Office of Economics and Analytics, the ability to adjust the limiting mechanism quantities (*i.e.,* 20 per 100 students and 5.5 per 1,000 square feet) as well as the funding caps in future funding years or future three-year budget cycles, after seeking comment on such an adjustment. The Commission also delegates to the Bureau the authority to resolve technical, procedural, and administrative issues that may arise in connection with this formula.

In the *NPRM,* the Commission sought comment on what category of service should be used for wireless internet service and the Wi-Fi hotspots needed to deliver the service, as well as how to prioritize such services should demand for E-Rate support exceed the annual funding cap. Consistent with the existing eligible services list, wireless internet services will be listed as eligible as a category one service, and will not be subject to the category two budgets. Wi-Fi hotspots will be eligible as category one network equipment necessary to make category one wireless internet services functional. The Commission agrees with commenters arguing that it should be eligible as category one, consistent with the treatment of supporting equipment necessary to sustain connectivity.

At the same time, in the event that demand for E-Rate support exceeds available funding, the Commission also adopts a rule to fund requests for eligible off-premises use of Wi-Fi hotspots and services after requests for eligible on-premises services, inclusive of both category one and category two services. Based on recent funding years and the limits that the Commission is adopting on Wi-Fi hotspot and recurring service requests, it does not expect the changes it adopts to cause demand to exceed the E-Rate funding cap. However, the Commission agrees with commenters that this approach will ensure that on-campus E-Rate funding is available and predictable for schools and libraries in future funding years. In making this determination, the Commission also applies it to requests for funding for off-premises use of school bus Wi-Fi services. Mobile wireless broadband connectivity for school buses is also eligible as a category one service, but as an off-premises wireless internet service, it will be funded after eligible on-premises services should demand exceed the E-Rate annual funding cap. This appropriately treats these off-premises wireless internet services and the equipment needed for the connectivity in the same manner and ensures that future demand for these off-premises services does not make access to on-premises broadband connectivity to and within the schools and libraries less predictable.

Next, mindful of its obligation to protect the integrity of the E-Rate program and be a careful steward of these limited funds, the Commission adopts a number of safeguards aimed at ensuring compliance with its rules and strengthening program integrity. In deciding whether and which measures to adopt, the Commission considers a variety of factors, including, importantly, the intended purpose for which this funding is available, its experience with the ECF program, and commenters' concerns regarding the burdens associated with and feasibility around adopting such protections. The Commission also relies on and leverage existing tools to ensure compliance with its rules, such as its audit procedures and competitive bidding, non-discounted share of costs, and discount rate rules. Coupled with those protections already built into the design of the mechanism the Commission establishes for the distribution of Wi-Fi hotspots and services, it seeks to protect the Fund, and the Commission reiterates its commitment to identify and pursue instances of waste, fraud, and abuse, including recovery of improperly disbursed funds where appropriate.

In the *NPRM,* the Commission sought comment on ways to ensure that the off-premises use of Wi-Fi hotspots and services primarily serves an educational purpose consistent with the Commission's rules and section 254(h)(1)(B) of the Communications Act. Specifically, the Commission asked whether requiring schools and libraries to certify on their forms that E-Rate support is being used primarily for this purpose is sufficient or if additional safeguards should be imposed to protect against improper use. Based on its experience with the ECF program and recognizing that the off-premises use of Wi-Fi hotspots and services raises novel challenges about ensuring their proper use, the Commission finds that adopting additional safeguards is necessary to ensure that E-Rate program funds are used for their intended purpose and to protect the integrity of the program. In

so doing, the Commission rejects those views expressed by commenters that the existing certifications are sufficient safeguards, and that ensuring the proper use of Wi-Fi hotspots and services off-premises is overly burdensome or impractical.

The Commission reminds applicants that E-Rate program rules require schools and libraries to use E-Rate-supported services, including Wi-Fi hotspots and services used off-premises, primarily for educational purposes. Thus, in addition to requiring schools and libraries to use the existing E-Rate certifications to ensure that the off-premises use of E-Rate-funded Wi-Fi hotspots and services is primarily for an educational purpose, the Commission requires applicants to maintain and—where necessary—update their acceptable use policies to clearly state that this off-premises use must be primarily for an educational purpose as defined by its rules. With respect to schools, this means that the acceptable use policy must state that the use must be ''integral, immediate, and proximate to the education of students.'' Similarly, for libraries, the acceptable use policy must clearly state that the use must be ''integral, immediate, and proximate to the provision of library services to library patrons.''

While the Commission's rules require schools and libraries to ensure the use of E-Rate-funded services align with these purposes, it has long-recognized that schools and libraries are in the best position to determine what guidelines and restrictions should govern the appropriate use of their networks and other technology. The Commission did not find the need to impose any other restrictions or specifications in the ECF program; and the Commission agrees with commenters that schools and libraries are appropriately positioned to make determinations about acceptable use in their communities. Applicants are subject to the requirements under the Children's internet Protection Act, which requires local educational agencies and libraries to establish specific technical protections before allowing network access. In establishing such protections, applicants often create AUPs that outline expected user behaviors. For example, schools in Virginia are ''required to establish guidelines for appropriate technology use'' and AUPs must, among other things, state ''the educational uses and advantages of the internet'' and identify ''prohibited forms of technology-based applications and hardware use.'' School staff and students are also required to ''monitor the use of technologies for grade-level and content appropriateness, ethics, and safety.'' Similarly, Maine State Libraries are encouraged to have an AUP in place for technology that is available for patron use and to review these policies with library staff. The Commission expects that schools and libraries will implement content and user network restrictions consistent with the restrictions that they place on their building-based networks, and to adopt suitable AUPs and other policies to limit access, but the Commission seeks to ensure applicants have the flexibility for unique situations and to avoid layering additional, similar restrictions that could result in program violations. For example, duration limits could deter applicants seeking to use hotspots for students that are home sick or home for inclement weather and accessing school or homework remotely.

Nor does the Commission require applicants to restrict access to the off-premises use of Wi-Fi hotspots and services to only users with appropriate credentials at this time. Based on the record, the Commission finds that it does not have sufficient information to adopt such requirements; and its experience with the ECF program suggests that many schools and libraries already require appropriate credentials when logging into their networks and using school- or library-issued devices, while those that do not have such restrictions typically have other technical solutions to limit access. To avoid unnecessarily penalizing those applicants with technical limitations and to provide applicants with flexibility, the Commission does not require schools and libraries to implement specific user access restrictions at this time, and it seeks additional comment on this issue in the companion *FNPRM.* Notwithstanding, consistent with Bureau's expectation around the use of Wi-Fi services on school buses, to the extent schools and libraries already restrict access to their networks and devices, the Commission expects them to continue to implement content and user network restrictions consistent with those restrictions that they place on their building-based broadband networks as described in their acceptable use and other policies. The Commission finds that this approach provides reasonable limits to ensure that the off-premises use of Wi-Fi hotspots and services is primarily for educational purposes in accordance with a school's and library's existing AUP and other policies.

To ensure students, school staff, and library patrons are aware of the limited purpose for which they might use E-Rate-funded Wi-Fi hotspots and services off-premises, the Commission requires schools and libraries to provide notice by adopting and publicly posting their acceptable use policies in whatever form they deem appropriate, but do not require them to collect signed documentation of user compliance with these policies as the Commission required of libraries participating in the ECF program. Given that schools and libraries already typically provide some form of notice of their acceptable use policies to students, school staff members, and library patrons, the Commission finds that imposing such a requirement would not be overly burdensome. The Commission likewise agrees with those commenters who argue that collecting signed documentation of user compliance with these policies is a significant burden on applicants, many of whom have limited resources and staff to collect and maintain such documentation. Indeed, its experience with libraries who participated in the ECF program has demonstrated just how onerous and complicated collecting and maintaining signed user compliance documentation can be; and the Commission is particularly sensitive to the concerns raised by some commenters that such measures might cause libraries to run afoul of their State privacy laws and, as a result, discourage participation. Accordingly, the Commission does not require applicants to collect this sort of user compliance documentation. However, applicants will be required to certify on their FCC Forms 486 that they have updated and publicly posted their acceptable use policies in accordance with the rules adopted herein. Additionally, applicants may be requested to provide their acceptable use policies and provide evidence of where it is publicly posted, upon request by the Commission or the Administrator.

Finally, while the Commission recognizes that schools and libraries may not have the same level of supervision or control over their students', school staff members', or patrons' off-premises use of Wi-Fi hotspots and services as they might have on-premises or even on a school bus as one commenter suggests, with these additional safeguards in place, the Commission expects to better ensure their proper use consistent with its rules and the Communications Act than if the Commission only relied on the existing E-Rate certifications. And, consistent with its existing rules, the Commission remind applicants that its rules require that E-Rate-supported equipment and services be *primarily* used for educational purposes, not *solely* used

for this purpose as one commenter submits. Thus, its rules provide some, albeit intentionally limited, flexibility to use these Wi-Fi hotspots and services for other purposes when they are not needed for educational purposes in the first instance. Applicants may be required, during a post-commitment review or audit, to explain what steps they have taken to comply with the requirement that use of the Wi-Fi hotspots is primarily for educational purposes (*e.g.,* user restrictions, content restrictions, or duration or time limits).

In the *NPRM,* the Commission sought comment on how to prevent the warehousing of Wi-Fi hotspots and reimbursement for unused equipment and/or services. Among the various ways contemplated, the Commission asked whether it should adopt numerical criteria to assess usage, require participants to provide evidence of usage, direct service providers to terminate services that are not being used, and/or limit E-Rate support to nine months out of the year (*i.e.,* the length of a typical school year) to prevent the program from covering the costs of unused devices and services during the summer. Many commenters agree that the E-Rate program should not pay for unused and/or warehoused equipment or services. At the same time, commenters urge us to create requirements that are both administrable for participants and also take into consideration the practical reasons why equipment or services may go unused for limited periods of time before adopting specific non-usage requirements and reimbursement denial procedures. As a general matter, the Commission agrees with these commenters and recognize that there are numerous reasons for non-usage and that applicants and service providers are often unable to monitor or mitigate all instances of non-usage. The Commission therefore distinguishes the treatment for equipment or services that are entirely unused or warehoused from instances where Wi-Fi hotspot equipment and services may have limited periods of non-usage.

The Commission first relies on the agency's extensive experience overseeing the ECF program in designing a hotspot program that protects against waste and abuse. It's experience suggests that reasonable safeguards to prevent warehousing and manage non-usage are necessary and possible, and the Commission rejects the view expressed by one commenter that there is no need for any usage requirement if the Commission applies existing competitive bidding requirements to off-premises services. In addition, the Commission made several important modifications to this hotspot initiative to distinguish it from the statutorily required procedures in the ECF program. First, the competitive bidding requirements required here were not mandatory in ECF, and the Commission believes requiring them will help ensure applicants consider available options and make cost-effective purchases. Next, the budget mechanism the Commission imposes will also require applicants to use limited funding to target those students, school staff, and library patrons with the greatest need. The Commission also placed funding caps for hotspot devices and recurring service, which will have the effect of limiting the E-Rate funding available for Wi-Fi hotspots and service. Finally, the Commission also believes requiring schools and libraries to pay the non-discount share of costs will help incentivize applicants to make measured choices and determine community needs. These important distinctions from the ECF program will be integral to helping us protect limited funds. The Commission disagrees with the commenter and find it is necessary to adopt additional requirements to ensure that the Commission is maximizing the use of E-Rate supported Wi-Fi hotspots and services.

Requirements. Considering its long-standing obligation to protect the integrity of the E-Rate program and being mindful of the concerns expressed by commenters regarding the feasibility of tracking and identifying non-usage, the Commission adopts a combination of requirements to protect against non-usage. The Commission first requires applicants to activate the Wi-Fi hotspot and service, make it available for loan, and publicize the availability of the Wi-Fi hotspot device and service to students, teachers, and library patrons via public notice or other means. To further protect the program from potential waste, the Commission also requires applicants to certify to having taken these steps on their FCC Forms 486. Applicants already use the FCC Form 486 to notify USAC that services have started on a particular funding request and will be required to certify to adopting measures to ensure proper use of E-Rate-funded Wi-Fi hotspots and services, among other things, and are required to submit these forms 120 days after the service start date or the date of the funding commitment decision letter, whichever is later. The Commission finds that requiring applicants to also certify to having taken these steps on their FCC Forms 486 before they or their service providers can begin to submit their requests for reimbursement is reasonable and would not be overly burdensome. To be clear, the Commission expects schools and libraries to make every effort to make available and encourage the use of Wi-Fi hotspots and services supported by the E-Rate program.

Second, the Commission expects that schools and libraries will carefully consider how to structure their lending programs to promote ongoing use of Wi-Fi hotspots and services. ALA highlights the importance of flexibility in circulation policies to address local needs but notes a general standard is necessary to ''ensur[e] the data is used regularly by users.'' The Commission agrees that schools and libraries understand well their community needs and are in the best position to structure a lending program to meet those needs, and can do so in a way that maximizes use of Wi-Fi hotspots and services following the requirements the Commission adopted. Such measures to encourage use may include limited lending periods (*e.g.,* 21 days or less), providing technical assistance to students and library patrons, monitoring circulation statistics, or other approaches deemed suitable by the school or library for the local community. For example, EveryLibrary Institute explains that libraries often already have mechanisms in place to pause service to a specific device which is ''typically enough reason for the patron to return the device.'' This prevents the service provider from billing ''for the time elapsed when the device was not in service, reducing program costs automatically.'' Similarly, ALA reported that ''the Dublin Public Library in Texas and Pima County Library in Arizona [are] able to work with service providers to track data usage and other aspects of hotspot use.''

Finally, to further prevent the E-Rate program from paying for ongoing services that are not being used, lines of service that have no data usage for approximately three consecutive months must be terminated by the service provider. As discussed further in this proceeding, on a monthly basis, service providers are required to notify applicants of each line of hotspot service that goes unused for at minimum 60 consecutive days and to provide applicants 30 days for the hotspot to be used before terminating the line of service. Service providers are also required to provide schools and libraries with data usage reports as described, and schools and libraries should regularly review these reports to identify hotspots with periods of non-usage to determine if there is an issue

with the device or to seek the return of a Wi-Fi hotspot after some period of non-use so the device can be loaned out again.

Warehousing. In the ECF program, the Commission prohibited schools and libraries from requesting E-Rate support for the purchase of additional Wi-Fi hotspots beyond the per-user limitation to ''maximize the use of limited funds'' and only provided support for devices and services currently needed, thus avoiding unnecessary warehousing. Several commenters, including the EveryLibrary Institute, flagged ''the possibility of applicants overstocking equipment to prepare for breakage or loss'' and that the E-Rate program should not pay for such equipment and services. The Commission agrees and adopt the same per-user limitation and prohibition against warehousing. Considering the limited funding available, the Commission finds that permitting applicants to purchase hotspots in anticipation of future use, loss, or breakage would be wasteful, and it concludes that limiting support in this way is reasonable. Applicants must certify to their compliance with this limitation on the FCC Form 471 application. Wi-Fi hotspots that have not been made available for distribution per the requirements specified will be considered to have been warehoused, a violation of the Commission's rules, and subject to a financial recovery.

Limited periods of non-use. As well-documented in the record, there may be legitimate reasons for limited periods of non-use by students, school staff, and library patrons that are outside of the control of schools, libraries, and service providers. Even in the context of the ECF program, the Commission has recognized that there may be circumstances where non-usage occurs but services would still be eligible for support, such as during a school's summer break. At the same time, the Commission is mindful of the need to balance the legitimate reasons for limited periods of non-use with its need to protect program integrity, and as such have adopted the approach described, with a notice opportunity before services will be terminated.

Commenters expressed concern with requirements that would leave schools and libraries responsible for paying the full amount of service charges when there is limited usage and indicated that such an approach would discourage participation in the program. However, service providers have also asserted that they have no control over the hotspots provided by a school or library to students, staff members, or library patrons. In response to the approaches proposed in the *NPRM,* commenters explained that assessing usage against numerical criteria would be challenging because usage below a pre-determined weekly, monthly, or quarterly threshold does not necessarily indicate that the hotspot devices are being warehoused and should be prohibited from reimbursement. Commenters also described the importance of student access to hotspots in the summer months to complete summer reading projects and other educational activities, and that the year-round access provided by libraries is essential. The Commission agrees with commenters that overly complex usage requirements would likely deter schools and libraries from seeking support for Wi-Fi hotspots and services, and find that such an outcome would negate its efforts to ensure schools and libraries can operate lending programs to connect students, school staff, and library patrons for off-premises use. Similarly, given the vital importance of internet connectivity, the Commission finds that limiting E-Rate support to nine months would contravene the purpose of this funding and ''would further exacerbate the 'summer slump'—the decrease in learning between school years—and inhibit remote learning during summer school.''

However, to reduce the risk of waste and inefficiencies in supporting Wi-Fi hotspots and services in the E-Rate program, the Commission finds that imposing a reasonable non-usage threshold requirement is both appropriate and necessary to ensure that E-Rate support is going to services that are actually being used. The Commission therefore adopt a rule to prohibit E-Rate support for lines of service that have not been used for a period of three consecutive months and have gone through the required notice process. Pursuant to this new rule, at least once every 31 days, service providers are directed to identify lines of service that have gone unused for no less than 60 days and provide the school or library with 30 days' notice that failure for the hotspot service to be used within the 30-day notice period will result in service termination for that particular line. The Commission concludes that this approach appropriately accounts for limited legitimate instances of non-usage, such as a school's summer break, while also providing sufficient time to allow schools and libraries to work with their service provider, as well as their student, school staff, and library patron users to cure the non-usage without being unnecessarily penalized. Upon receipt of a non-usage notification from a service provider, applicants should take steps to determine whether the device and services are being used, should be redistributed, or should be discontinued. Applicants may work with their service provider to restart services that have been terminated (*e.g.,* where a hotspot is redistributed) one time per funding year, but the Commission caution applicants that such action to restart service after termination will be subject to program integrity reviews and therefore, applicants should take steps to ensure that they have the associated need prior to restarting services terminated for non-usage again.

The Commission is also sympathetic to the concerns expressed in the comments regarding a rule that would leave schools and libraries responsible for paying the full amount of service charges for limited usage or in this case, a terminated line of service. In the event of a terminated line of service resulting from this non-usage requirement, service providers are prohibited from billing the applicant for the balance that was not paid for by the E-Rate program. Service providers will be required to certify on their FCC Form 473 (Service Provider Annual Certification (SPAC) Form) that they will comply with this non-usage notice and termination requirement and will not charge applicants the balance for the terminated services.

Finally, while the Commission understands service providers' concerns regarding their lack of a direct customer relationship with a student, school staff, and library patron user, it finds that imposing this usage requirement will appropriately incentivize service providers to avoid requesting reimbursement for ongoing lines of services that are not being used. This requirement follows a similar principle to the non-usage rules adopted in other programs, like ACP and Lifeline, and therefore the Commission expects that many mobile wireless service providers are familiar with monitoring usage and have even adapted their systems to track and provide notice accordingly. The Commission concludes that this rule strikes a reasonable and appropriate balance between ensuring that E-Rate support for Wi-Fi hotspots is being used responsibly, while not implementing overly complex rules that would be unadministrable for schools and libraries or deter participation.

Some commenters alternatively suggest that the Commission provides program participants with an opportunity to explain the reason for the non-usage before denying funding and

argue that this approach is preferable. The Commission declines to take this approach because it finds that such a process would be overly resource intensive and fail to efficiently achieve the program's goals. In particular, the Commission finds that tracking down students, school staff members, and library patrons to ascertain the reason for non-usage while disbursements are on hold could take time and significantly delay the review and disbursement process. In addition, such an approach would require the Commission to prescribe a comprehensive list of the permissible reasons for which Wi-Fi hotspots and services may not be used after they have been distributed, which it would then need to be able to verify for purposes of ensuring program compliance. Considering the record, the Commission is reluctant to create and implement such a list because that approach would only delay reimbursements, frustrate program participants, and cause uncertainty about the availability of funding. Comparatively, the Commission finds the non-usage notice and termination rule detailed will better allow schools and libraries to work with their students, school staff, and library patrons, as well as their service providers to ensure the hotspots and services are being used without impacting or delaying the review and disbursement processes.

Moreover, in the context of the new program safeguards that the Commission adopts in the *Order,* the additional usage requirements the Commission establishes protects public funds and maximize the use of supported Wi-Fi hotspots and services. In particular, the Commission believes the funding cap for monthly service described will aid in controlling costs and the requirement of paying the non-discount share of costs will incentivize schools and libraries to avoid subscribing to unused services, enabling us to provide support for Wi-Fi connectivity necessary to engage in remote learning for students, school staff, and library patrons. However, in light of the challenges identified with the solutions proposed in the *NPRM* and lack of information in the record to address these issues, the Commission remains cognizant of the risk of non-usage of E-Rate-funded hotspots and want to ensure applicants are encouraging use among their students, school staff, and library patrons. The Commission therefore finds it necessary to explore further ways to monitor and address non-usage in the companion *FNPRM.* Additionally, the Commission delegates authority to the Bureau to resolve any procedural or administrative issues that arise with the usage requirements adopted herein.

Usage reports. To enable schools and libraries to monitor usage and make adjustments to the structure of their lending programs in a way that maximizes the use of Wi-Fi hotspots and services, the Commission requires service providers to provide reports regarding data usage to applicants at least once per billing period. Such reports must be provided in machine-readable digital format, so that the information lines can be read and sorted, clearly identifying the lines that are not being used across billing periods or that will be or have been terminated as a result of the non-usage rules adopted herein. Because service providers regularly make such reports available to applicants and the Commission provides flexibility in how reports are provided, the Commission finds that imposing such a requirement would not be overly burdensome. Further, no commenter opposes this idea. Schools and libraries are also required to make these reports available to the Commission and/or USAC upon request, including to support program integrity reviews. The Commission expects applicants to review the data usage reports and to take actions to address non-usage included in the reports, including requesting the return of the Wi-Fi hotspot or requesting the service to be turned off to prompt the return of the unused hotspot device, consistent with the requirements described herein.

Program integrity reviews. In addition to the existing standard post-commitment reviews and audits to ensure compliance with E-Rate program rules more broadly, the Commission directs USAC to regularly conduct program integrity reviews to monitor school, library, and service provider compliance with the requirements defined, including checking for warehousing and discontinued lines of services for non-usage. The Commission further directs USAC, subject to approval by the Bureau, to develop risk-based procedures for these reviews. Schools and libraries subject to these program integrity reviews must provide usage reports and other documentation as requested, consistent with E-Rate program rules.

The Commission modifies § 54.516 of its rules to require E-Rate participants who receive support for the off-premises use of Wi-Fi hotspots and services to maintain detailed asset and service inventories of each hotspot and wireless service provided for use off-premises. In the *NPRM,* the Commission sought comment on whether to adopt the ECF program's requirement to keep detailed asset and service inventories for each hotspot device and service provided to a student, school staff member, or library patron. In response, commenters raised concerns about the burdens associated with maintaining such inventories. The Commission's experience with the ECF program, however, demonstrated the inventory requirements served a critical purpose in ensuring that schools and libraries receiving support know where the equipment and services are located and that they comply with the program requirements. In particular, the inventories were helpful in detecting, for example, warehousing of devices by identifying which devices had not been distributed. As such, the Commission concludes that the benefit to the program of adopting more detailed inventory requirements will outweigh the burden of requiring increased recordkeeping. The Commission is further convinced that this is a reasonable requirement by the fact that the E-Rate program is not an emergency program like the ECF program. The Commission therefore concludes that there is time for schools and libraries to make a reasonable assessment of their needs and ability to comply with these recordkeeping requirements, and urge applicants to do so prior to requesting support. Relatedly, the Commission reminds participants that they may be asked to provide this information upon request to the Commission or USAC, and that failure to comply with program rules, including the requirement to maintain asset and service inventories, may result in a denial of funding or a financial recovery.

In adopting the more detailed inventory requirements, the Commission is sympathetic to the concerns expressed by library commenters, who claim that the level of detail required by the ECF program's inventory requirements served as a barrier to participation in the program because of conflicts with many States' library patron privacy laws and existing library circulation systems and practices. In particular, commenters explain that the majority of States have laws in place that protect the confidentiality of library records and prohibit disclosure of patrons' personally identifiable information (*e.g.,* individual names) without first seeking a waiver from each individual or, in some cases, needing a court order. Circulation and tracking systems are set up to be compliant with these State

laws, meaning that libraries did not already track and retain records with sufficient detail to meet the ECF program's requirements, resulting in the need for manual tracking of this information, and to do so potentially in conflict with applicable State laws. While the Commission recognizes that schools also have their own privacy laws to which they adhere, the limitations are not so strict as to create comparable burdens for recordkeeping. The Commission therefore agrees with commenters who advocate for adopting library-specific rules to recognize the realities of libraries' abilities to maintain such records and to ensure that libraries can take part in this important funding source to continue their successful hotspot lending programs.

The Commission also agrees with commenters who urges it to be clear up front about what is expected of the recordkeeping requirements. The Commission finds that modifying § 54.516 of its rules to adopt the specific information required for an asset and service inventory of Wi-Fi hotspots and services purchased with E-Rate support is the best approach to ensure parties understand exactly what is expected. The Commission also reminds applicants that the obligation of schools and libraries to keep track of and document the devices that they distribute includes documenting information about missing, lost, or damaged equipment.

For school participants receiving support for Wi-Fi hotspots and services, the asset and service inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the full name of the person to whom the equipment was provided; (4) the dates the equipment was loaned out and returned, or the date the school was notified that the equipment was missing, lost, or damaged; and (5) service detail. By ''service detail,'' the Commission means the line number or other unique identifier that associates a device to that particular line of service. For library participants receiving support for Wi-Fi hotspots and services, the asset and service inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the dates the equipment was loaned out and returned, or the date the library was notified that the equipment was missing, lost, or damaged; and (4) service detail.

Consistent with the E-Rate program's current recordkeeping rule, program participants are required to retain documentation related to their participation in the E-Rate program, including the asset and service inventories, acceptable use policies, evidence of publicizing Wi-Fi hotspot availability, and other required documentation for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Separately, the Commission amends the language of § 54.516 of its rules to include E-Rate-funded equipment and services provided on school buses.

As was the case for the ECF program, the Commission is mindful of privacy concerns regarding the collection of personally identifiable information about the individual (*e.g.,* student, school staff member, or library patron) that makes use of E-Rate-supported equipment and services. The Commission, USAC, and any contractors or vendors will abide by all applicable Federal and State privacy laws. The Commission also directs Commission, USAC, and contractor/vendor staff to take into account the importance of protecting the privacy of students, school staff and library patrons; to design requests for information, including those related to the data usage reports and asset and service inventories, from schools and libraries in a way that minimizes the need to produce information that might reveal personally identifiable information; and to work with auditors to accept anonymized or deidentified information in response to requests for information wherever possible. In addition to the existing standard post-commitment reviews and audits to ensure compliance with E-Rate program rules more broadly, the Commission directs USAC to regularly conduct program integrity reviews to monitor school, library, and service provider compliance with the asset and service inventory rules.

In the *NPRM,* the Commission sought comment on safeguards to prevent duplicative funding for off-premises use of Wi-Fi hotspots and services across the Federal universal service programs and other funding programs, including Federal, State, Tribal, or local programs. The Commission also requested comment on whether ''a certification by the school or library [would] be sufficient to indicate that E-Rate support is only being sought for eligible students, school staff, or library patrons and the school or library does not already have access to Wi-Fi hotspots purchased with ECF support or other sources of funding.'' Generally, commenters agree that the Commission should not duplicate funding for Wi-Fi hotspots and services that are funded through other sources or programs. The Commission concludes that it is appropriate to prohibit duplicative funding for off-premises Wi-Fi hotspots and services funded with E-Rate support and further find that protections against duplicate funding adopted herein should apply to all E-Rate-funded equipment and services.

For example, NTCA argues that Wi-Fi hotspots and services should be limited to locations where High-Cost USF support is not distributed and where the Commission's own broadband availability data indicate service is not already available. In contrast, other commenters contend that ''the Commission should not impose unnecessary restrictions on households' receipt of funding from multiple Federal universal service programs . . . households are entitled to apply under different USF programs for different eligible needs.'' The Commission agrees that it should not duplicate funding for Wi-Fi hotspots and services that are already funded. However, the Commission disagrees that the availability of High-Cost support or the availability of service as indicated in its broadband data should preclude funding for an E-Rate-supported Wi-Fi hotspot because this does not guarantee that a student or library patron has the off-premises broadband access needed to complete their educational activities.

As noted in the *NPRM,* households may justifiably receive support from multiple universal service programs at the same time; however, to make the most of the support available through the E-Rate program, and to protect against waste, fraud, and abuse, the Commission finds it necessary to not extend E-Rate support to Wi-Fi hotspots and services that have already been funded though other sources or programs. Therefore, the Commission will not provide E-Rate support for eligible Wi-Fi hotspots and services, or the portion of eligible Wi-Fi hotspots and services that have already been reimbursed with other Federal, State, Tribal, or local funding, or other external sources of funding. Additionally, while commenters suggested that the Commission should not provide funding to households that receive ACP benefits, the Commission note that the ACP officially ended on June 1, 2024. As such, the Commission finds that not only does this eliminate the concern of duplicative funding between ACP and the Wi-Fi hotspots and services funded through the E-Rate program, but it also reinforces the need for E-Rate support to connect students, school staff, and library patrons who may now lack access as a result of losing the ACP benefit.

To prevent duplicative funding, the Commission takes a similar approach to the approach the Commission took in the ECF program and adopt a rule prohibiting E-Rate participants from seeking support or reimbursement for eligible equipment and services that have been funded by other programs, including Federal (*e.g.* other universal service programs, ECF, etc.), State, Tribal, or local programs. Recognizing that the need to protect against duplicative funding is not limited to E-Rate-funded Wi-Fi hotspots and services used off-premises, the Commission adopts rules to prohibit duplicative funding for all E-Rate-funded equipment and services. The Commission also finds this to be consistent with the Commission's past actions to prevent duplicate funding in other universal service support mechanisms. Additionally, consistent with record support for requiring applicants to certify that there is no duplicative funding for their requests, the Commission requires applicants to certify on the application for funding and on the request for reimbursement forms (*i.e.,* the FCC Forms 472/474) that they are not seeking support for eligible equipment and services that have been funded by other sources. This measure balances the interest of applicants by allowing them to continue participating and receiving funding from other programs, for which they are eligible, while simultaneously preventing waste of limited E-Rate funds by not funding equipment and services that have already been funded by other programs. These rules will help ensure that applicants are aware of the prohibition on duplicative funding for equipment and services, and are only requesting funding that they do not otherwise have available.

Section 254(h)(3) of the Communications Act, which applies to the E-Rate program, and the existing E-Rate rules prohibit sale, resale, or transfer of E-Rate-supported equipment for five years. In the *ECF Order,* the Commission adopted a three-year wait time to dispose, sell, trade, or donate equipment purchased with ECF funds, including Wi-Fi hotspots, explaining that ''devices and other equipment loaned to students, school staff, and library patrons and installed off-campus will likely have a shorter average life cycle than equipment installed and maintained on school or library premises.'' Consistent with its approach in the ECF program, the Commission finds that Wi-Fi hotspot devices intended for off-premises use by students, school staff, and library patrons are likely to have a shorter lifecycle and therefore, the Commission adopts a rule that Wi-Fi hotspot devices for off-premises use and supported with E-Rate funds can be disposed of after three years.

Schools and libraries requesting E-Rate support for Wi-Fi hotspots are prohibited from selling, reselling, or transferring equipment in consideration of money or any other thing of value for three years after its purchase. Wi-Fi hotspots purchased with E-Rate funds and used off-premises will be considered obsolete at the end of the three year period. Obsolete equipment may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded. This approach takes into consideration the limited lifespan of Wi-Fi hotspots, while also helping prevent potential waste, fraud, and abuse by ensuring that the hotspot devices are used for a minimum of three years.

Head Start, Pre-Kindergarten, and Kindergarten. In the *NPRM,* the Commission proposed to limit the student population eligible for E-Rate support for the off-premises use of Wi-Fi hotspots and service. Specifically, the Commission proposed to exclude Head Start programs, providing early learning and development for pre-school children from the ages of 3 to 5, and pre-kindergarten students from receiving E-Rate support for off-premises use of Wi-Fi hotspots and services. Commenters agree with excluding the eligibility of Head Start and pre-kindergarten populations for a Wi-Fi hotspot to be used off-premises, but also urged that kindergarten populations should be excluded as well. SECA supports making young learners, pre-kindergarten, and kindergarten ineligible for Wi-Fi hotspots when they are off-campus stating that not giving them this device can ''help curb lost and damaged devices'' and further stating that ''hotspots generally should be made available only for students in grades where they are required to access the internet off-campus for their homework and for other educational purposes.'' WISPA also agrees that funding for Wi-Fi hotspots should be limited to post-kindergarten students who are more likely to need internet access for educational purposes.

The Commission agrees and make Head Start, pre-kindergarten, and kindergarten populations ineligible for E-Rate-supported Wi-Fi hotspots for off-premises use, consistent with the support of commenters. As noted in the *NPRM,* studies recommend an hour or less of internet exposure for children under the age of five. Therefore, for these populations the risks may outweigh the benefits of receiving an E-Rate-supported Wi-Fi hotspot for off-premises use, and as a result, these populations are less likely to need the internet for educational purposes. As mentioned in the *NPRM,* Head Start and/or pre-kindergarten education facilities serving this particular age group may be eligible for E-Rate funding for broadband connectivity to and within their facilities, if determined to be elementary schools under their applicable State laws. Commenters also note that kindergarteners are unlikely to need internet access for off-campus educational uses. The Commission thus limits eligibility for Wi-Fi hotspots and internet services to post-kindergarten students and school staff. The Commission notes, however, that for the purposes of calculating the hotspot budgets, it seeks to streamline the information collections and will use the full-time student enrollments that are used for category two budgets, which includes kindergarten students and may also include pre-kindergarten students in certain States.

In providing support for the off-premises use of Wi-Fi hotspots and services, the Commission is also mindful of the longstanding goal of fair and open competitive bidding for such equipment and services. The Commission recognizes that many schools and libraries may have taken advantage in recent years of discounted Wi-Fi hotspots and/or recurring services offered during the pandemic to enable their students, school staff, and library patrons to engage in remote learning. The Commission recognizes that applicants may have done this while it temporarily waived the gift rules for the ECF and E-Rate programs. The Commission reminds all E-Rate program participants seeking reimbursement for Wi-Fi hotspots and services of its gift rules, which prohibit applicants from soliciting or accepting any gift or other thing of value from a service provider participating in or seeking to participate in the E-Rate program. Similarly, service providers are prohibited from offering or providing any gift or other thing of value to those personnel of eligible entities involved in either program. The Commission's gift rule is always applicable to E-Rate program participants and is not in effect or triggered only during the time period when competitive bidding is taking place. Additionally, applicants are not permitted to solicit or accept a gift or thing of value over $20 from a service provider, and service providers are not

permitted to offer or provide applicants a gift or thing of value over $20.

The Commission has previously explained that the gift rule is not intended to discourage charitable donations to E-Rate eligible entities as long as those donations are not directly or indirectly related to E-Rate procurement activities or decisions and provided the donation is not given with the intention of circumventing the competitive bidding or other E-Rate program rules. For example, the Commission understands that some service providers offer free or discounted Wi-Fi hotspots with a service plan. The gift rule prohibits service providers from offering these kinds of special equipment discounts or equipment with service arrangements to E-Rate recipients only if such offerings are not currently available to some other class of subscribers or segment of the public.

Moreover, the record and its experiences in the ECF program have shown that service providers sometimes bundle Wi-Fi hotspots and ineligible components into the costs of services. Entities seeking E-Rate support for Wi-Fi hotspots and services for off-premises use are reminded that E-Rate recipients are required to cost-allocate ineligible components that are bundled with eligible equipment or services. With respect to offerings that bundle the costs of the eligible Wi-Fi hotspots and services together, applicants may continue to seek E-Rate funding for eligible components of bundled services. However, for the ease of administration and to streamline review of funding requests, applicants and service providers should itemize these eligible components when invoicing, and Wi-Fi hotspots, services, as well as any eligible components or fees should be requested on separate funding lines when seeking support for these equipment and services.

The Commission considers audits and other review mechanisms in the E-Rate program to be important tools in ensuring compliance with its rules and identifying instances of waste, fraud, and abuse. Considering the action the Commission takes to extend the off-premises uses eligible for E-Rate funding, the Commission expects that these tools will continue to be paramount to its ability to ensure that these finite funds are used appropriately and consistent with its rules. The Commission makes clear, therefore, that any support provided for the off-campus use of Wi-Fi hotspots and services under the program will be subject to all audits and reviews currently used by the program (*e.g.,* Beneficiary and Contributor Audit Program (BCAP) audits, Payment Quality Assurance (PQA) assessments, and Program Integrity Assurance (PIA) reviews and Selective Reviews (SR) reviews) and could be subject to recovery should the Commission and/or USAC find a violation of its rules and deem it appropriate. Specifically, consistent with existing E-Rate audits and reviews, applicants and service providers may be subject to audits and other investigations to evaluate compliance with the rules the Commission adopt, including, for example, what equipment and services are eligible and how the equipment and services may be used.

The Commission, USAC, and contractor/vendor staff are directed to work with auditors to accept anonymized or deidentified information in response to requests for information wherever possible. If anonymized or deidentified information regarding the students, school staff, and library patrons is not sufficient for auditors' or investigative purposes, the auditors or investigators may request that the school or library obtain consent of the parents or guardians, for students, and the consent of the school staff member or library patron to have access to this personally identifiable information or explore other legal options for obtaining personally identifiable information. In the event consent is not available, the Commission recognizes that the auditors may need to use other procedures or take different actions to determine if there is any evidence of waste, fraud, or abuse from the use of E-Rate funding for off-premises Wi-Fi hotspots. The Commission additionally delegates to the Bureau and Office of the Managing Director, in consultation with the Office of General Counsel (and specifically the Senior Agency Official for Privacy) the authority to establish requirements for the Bureau's, USAC's, or any contractor's/vendor's collection, use, processing, maintenance, storage, protection, disclosure, and disposal of personally identifiable information in connection with any audit or other compliance tool.

The Commission also reminds program participants of their obligation to maintain documentation sufficient to demonstrate their compliance with program rules for ten years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. And, upon request, they must submit documents sufficient to demonstrate compliance with program rules, including the Wi-Fi hotspot-specific documentation requirements the Commission adopted, such as maintaining asset and service inventories and acceptable use policies. Additionally, schools, libraries, and service providers participating in the E-Rate program may be subject to other audit processes, including audits and inspections by the Office of Inspector General and other entities with authority over the entity.

Sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Communications Act collectively grant the Commission broad and flexible authority to establish rules governing the equipment and services that will be supported for eligible schools and libraries, as well as to design the specific mechanisms of support. This authority reflects recognition by Congress that in order to advance its universal service objective, the types of services supported by the various support mechanisms are constantly evolving in light of ''advances in telecommunications and information technologies and services.'' In the *NPRM,* the Commission sought comment on whether these provisions authorize it to provide E-Rate support for schools or libraries to purchase Wi-Fi hotspots and wireless internet services for off-premises use, recognizing how today's technology-based educational environment has significantly evolved beyond the physical boundaries of a school or library campus. Specifically, the Commission proposed to find that school or library purchases of Wi-Fi hotspots and internet services for off-premises use by students, school staff, and library patrons for remote learning and the provision of virtual library services constitutes an educational purpose and enhances access to advanced telecommunications and information services pursuant to section 254 of the Communications Act. As explained further in this proceeding, the Commission concludes that it has authority under section 254 of the Communications Act to permit eligible schools and libraries to receive E-Rate support for the off-premises use of Wi-Fi hotspots and wireless internet services.

First, the Commission considers its proposed finding that the off-premises use of school- or library-purchased wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity constitutes services that are ''provide[d] . . . to elementary schools, secondary schools, and libraries,'' and thus, may be supported pursuant to section 254(h)(1)(B) of the Communications Act when used ''for educational purposes.'' In response, many commenters agree that section 254(h)(1)(B) of the Communications Act

does not prohibit the Commission from allowing E-Rate funds to be used by schools or libraries to support remote learning for students and school staff, and access to library services for library patrons so long as it first finds that the equipment and services that schools or libraries purchase for off-premises use will serve an educational purpose. The Commission finds this view to be consistent with its determination in the *School Bus Wi-Fi Declaratory Ruling* that any future decision to support school or library purchases of E-Rate-supported services requires the Commission to first find that the off-premises use of such service is ''integral, immediate, and proximate to the education of students or the provision of library services to library patrons'' and, therefore, serves an educational purpose.

Turning next to the question of whether the off-premises use at issue herein serves an educational purpose, many commenters urge the Commission to find that the off-premises use of such wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons. For example, the North American Catholic Educational Programming Foundation (NACEPF) and Mobile Beacon argue that ''[e]nabling students to participate in hybrid learning, complete their homework, or participate in other educational opportunities clearly qualifies as an 'educational purpose.' '' Likewise, commenters assert that Wi-Fi hotspots are needed to ensure library patrons can access library services. The Commission agrees with these commenters. Given the lack of a reliable broadband connection at some students', school staff members', and library patrons' homes, the struggle for many households to afford high-speed broadband (particularly in light of the end of the ACP), and the increasing need for connectivity in today's technology-based educational environment that extends learning beyond a school or library building (*e.g.,* for virtual classes, electronic research projects, homework assignments, virtual library resources, research, etc.), the Commission finds that the off-premises use of such wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity to students, school staff, or library patrons is ''integral, immediate, and proximate to the education of students or the provision of library services to library patrons'' and, therefore, serves an educational purpose. For example, if a student is unable to complete their homework or participate in a virtual class or research project due to lack of internet access while off-premises, that lack of access is likely to have an immediate, negative impact on that student's academic performance, which is integral to their education. Similarly, if a library patron is unable to access work-related research for school or career advancement, that lack of access is likely to have an immediate, negative impact on that patron's career. As such, the Commission finds that the connectivity provided through the off-premises use of Wi-Fi hotspots can make a difference in a student's, school staff member's, or library patron's ability to meaningfully engage in learning and fully access library services; the provision of such services thus serves an educational purpose.

The Commission disagrees with the commenters who assert that ''educational purpose'' is defined to require a physical link to a school or library campus. Although activities that occur on-campus are presumed to serve an educational purpose, the Commission has never stated that the inverse would be true (*i.e.,* that all off-premises uses are presumed *not* to be for an educational purpose). To the contrary, the Commission has already recognized that in certain instances, the off-premises use of E-Rate-funded telecommunications services and information services are found to serve an educational purpose, such as when a school bus driver uses wireless telecommunications services while delivering children to and from school, or when students use Wi-Fi or similar access point technologies on school buses to complete homework. A number of commenters agree that it is consistent with this precedent to find that the off-premises use of wireless internet services and the Wi-Fi hotspots needed to deliver such connectivity similarly serves an educational purpose. The Commission further disagree with NTCA's claim that its prior orders have required that services be physically ''tied to a place of instruction.'' Although the Commission has previously stated that ''the purpose for which support is provided'' must ''be for educational purposes in a place of instruction,'' neither the Commission nor the statute has defined the physical confines of where instruction can take place, and the *Schools and Libraries Second Report and Order,* 68 FR 36931, June 20, 2003, that NTCA quotes did allow funding for certain off-premises services, demonstrating the Commission's longstanding understanding that ''educational purposes in a place of instruction'' can include off-premises uses. Therefore, based on the record and consistent with Commission precedent, the Commission concludes that section 254(h)(1)(B) of the Communications Act allows E-Rate support for services purchased by ''elementary schools, secondary schools, and libraries'' for the purpose of allowing students, school staff, and library patrons to use those services off-premises for educational purposes. Finally, contrary to NTCA's assertion, the Commission also finds this conclusion is consistent with the statutory language requiring that services be provided ''to'' schools and libraries because schools or libraries are the customers and recipients of the services they purchase, and the services are therefore provided to them within the meaning of section 254(h)(1)(B), even if used elsewhere.

The provision of support to schools and libraries to purchase wireless internet services for off-premises use for educational purposes fits squarely within the Commission's long-established authority and direction under section 254(h)(1)(B) of the Communications Act to designate '' 'services that are within the definition of universal service under subsection (c)(3),' which itself authorizes the Commission to designate non-telecommunications services for support under E-Rate.'' As explained in the *NPRM,* the Commission expressly rejected the assertion that the support provided under section 254(h) of the Communications Act is limited to telecommunications services when it concluded in the *First Universal Service Order,* 62 FR 32862, June 17, 1997, that section 254(h)(1)(B) through section 254(c)(3) of the Communications Act authorizes universal service support for telecommunications services *and* additional services such as information services. Pursuant to this longstanding precedent, authority provided by section 254(h)(1)(B) and section 254(c)(3) is not limited to telecommunications services but also authorizes support for the off-premises use of wireless internet services. Further, the Commission finds that section 254(h)(1)(B) through section 254(c)(3) of the Communications Act provides authority to support the Wi-Fi hotspot devices that are necessary to provide the wireless internet services. In the *First Universal Service Order,* the Commission concluded that ''it can include 'the information services' *e.g.,* protocol conversion and information

storage, that are needed to access the internet, as well as internal connections, as 'additional services' that section 254(h)(1)(B), through section 254(c)(3), authorizes us to support.'' The Commission further distinguished between ineligible types of peripheral equipment (*e.g.,* laptops) and eligible equipment that is necessary to make the services functional. The Commission find that because Wi-Fi hotspots can provide a critical connection for delivery of internet service, they fall into the latter category, and the Commission therefore concludes that it has authority under section 254(h)(1)(B) through section 254(c)(3) of the Communications Act to support the off-premises use of Wi-Fi hotspot devices that are needed for the delivery of wireless internet services.

Separately, the Commission finds that section 254(h)(2)(A) of the Communications Act authorizes it to permit E-Rate support for the off-premises use of Wi-Fi hotspots and services because hotspots and services that connect students, school staff, and library patrons to digital learning will ''enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms . . . and libraries.'' First, the Commission finds that providing support for such equipment and services through the E-Rate program will be ''technically feasible and economically reasonable.'' This is best demonstrated by the more than one million ECF-funded Wi-Fi hotspots and services that were distributed to students, school staff, and library patrons who may have otherwise lacked access and who were successfully connected to remote learning. Based on those experiences in the ECF program, as well as demand falling short of the E-Rate program's funding cap for many years and the limited lending program budget mechanism adopted herein, the Commission believes that the cost of funding the off-premises use of Wi-Fi hotspots and services can be accomplished within the E-Rate program's existing budget.

Second, the Commission concludes that funding Wi-Fi hotspots and services for off-premises use will help enhance access for school classrooms and libraries to the broadband connectivity necessary to facilitate digital learning for students and school staff, as well as library services for library patrons who lack broadband access when they are away from school or library premises. As discussed, the internet has become critical for equitable access to education. For example, even before the pandemic, a significant number of teachers and students around the country reported requiring an internet connection to complete homework, and after the pandemic, some schools still retain the option to attend classes virtually. Beyond the context of school, digital literacy has become increasingly important in the workforce, with many applications, interviews, and forms that in an earlier era applicants might have used library resources to complete in person are now taking place online. Yet, a portion of our population still lacks internet access, meaning that they are unable to engage in such regular educational tasks like homework, research, developing or updating resumes, or applying for jobs. For many of these individuals, the internet access provided by their local school or library is their primary means of accessing such critical resources. The record is filled with examples of how Wi-Fi hotspots and services, in particular, have been very effective at closing this Homework Gap and digital divide. By providing E-Rate support for Wi-Fi hotspots and wireless internet services that can be used off-premises, the Commission can help schools and libraries to connect, for example, the student who has no way of accessing their homework to prepare for the next day's classroom lesson, or the school staff member who is unable to engage in parent-teacher meetings or professional trainings that take place after the school day ends, or the library patron who needs to attend a virtual job interview or perform bona fide research after their library's operating hours. Thus, the Commission concludes that by permitting support for the purchase of Wi-Fi hotspots and internet wireless services that can be used off-premises and by allowing schools and libraries to use this technology to connect the individuals with the greatest need to the resources required to fully participate in classroom assignments and in accessing library services, the Commission will thereby extend the digital reach of schools and libraries for educational purposes and allow schools, teachers, and libraries to adopt and use technology-based tools and supports that require internet access at home. For these reasons, the Commission concludes that the action adopted is within the scope of its statutory directive under section 254(h)(2)(A) of the Communications Act to enhance access to advanced telecommunications and information services for school classrooms and libraries.

Furthermore, the Commission agrees with commenters that permitting E-Rate support for the off-premises use of Wi-Fi hotspots and services is consistent with its exercise of its authority under section 254(h)(2)(A) of the Communications Act to establish the Connected Care Pilot Program and to clarify that the use of Wi-Fi on school buses is eligible for E-Rate funding. In establishing the Connected Care Pilot Program, the Commission found that providing support for patients' home broadband connections expanded health care providers' digital footprints for purposes of providing connected care services and allowed health care providers and patients to overcome the obstacle of cost to adopt beneficial connected care services through the pilot program, thus enhancing eligible health care providers' access to advanced telecommunications and information services. As NACEPF & Mobile Beacon explain in their reply comments, similar reasoning exists to support off-premises access for classrooms and libraries: many students lack the broadband connectivity required to fully participate in their education and to complete their assignments. Providing for the off-premises use of Wi-Fi hotspots and services would remove this obstacle and therefore, enhance the ability of classrooms and libraries to connect with learners and enable them to participate fully in their classwork and lessons, and complete their assignments. The Commission disagrees with ACA Connects' assertion that the *NPRM*'s proposal differs from the permissible actions taken in the *School Bus Wi-Fi Declaratory Ruling* because unlike a school bus, which is a school-controlled facility, no nexus exists between the school or library and the off-premises learning location (*e.g.,* a student's home). The Commission does not agree that the school or library needs to be in control of a location where the individual learns for there to be a nexus, because the Commission finds that this is not in line with the reality of how classroom instruction incorporates online resources (*e.g.,* assignments that must be completed and submitted online—often by a deadline outside of ''school hours'', schoolwork sent home with a student, online school days, required use of e-books or online videos) or the intent of E-Rate funding. Rather, the Commission finds that students, school staff, and library patrons have a direct nexus with their school or library through the provision of remote learning and education and that this nexus will be further

strengthened by the safeguards the Commission also imposed.

Finally, the Commission finds section 254(h)(2)(A)'s reference to services for ''classrooms'' includes using E-Rate support to connect students, school staff, and library patrons to valuable digital educational resources when they are not located on the school or library campus. The Commission notes that the statute directs the Commission to establish rules to enhance access ''*for* all public and nonprofit elementary and secondary school classrooms . . . and libraries.'' Notably, the text does not say to enhance access to services ''at'' or ''in'' school classrooms (or libraries), as would more naturally indicate a tie to a physical location. Moreover, the Commission sought comment in the *NPRM* on whether the reference in section 254(h)(2)(A) of the Communications Act to ''elementary and secondary school classrooms . . . and libraries'' includes expanding access to supported services that can be used in student, school staff, and library patron homes, given that today's educational environment often extends outside of the physical school or library building. In response, many commenters highlight the proliferation of online instruction and remote learning, particularly in the wake of the COVID–19 pandemic. Specifically, commenters argue that the language of section 254(h)(2)(A) of the Communications Act should be interpreted to reflect the increasingly hybrid nature of education and enable off-premises access to important educational resources that support learning, such as student access to homework or online classes, or educator access to professional learning courses, networks, and materials, and library patron access to e-books and virtual programs. As exemplified during the COVID–19 pandemic-era campus closures, the physical school building is not the only place where a student can be in ''class'' and there are myriad reasons why a student, school staff member, or library patron may not be able to travel to the physical campus but still requires access to their remote learning and other educational resources. As such, the Commission concludes that section 254(h)(2)(A)'s reference to ''classrooms'' is appropriately interpreted to extend beyond the brick and mortar school buildings. Although a few commenters argue that interpretation is inconsistent with the statute's use of the word ''classroom'' because hotspots can be used anywhere, the Commission disagrees. As explained, in today's world, effective classroom learning often demands access to the internet outside of the school or library building, and the Commission therefore continues to believe that the best reading of ''for . . . classrooms'' allows funding for services that support effective classroom instruction, even if such services are used outside of a brick-and-mortar classroom. At the same time, to ensure the Commission is making the most-effective use of these scarce funds and limiting the off-premises use of Wi-Fi hotspots and services to educational purposes, the Commission finds it necessary to adopt the specific safeguards discussed.

The Commission concludes that the obligations of the Children's internet Protection Act (CIPA) apply if the school or library receives E-Rate (or ECF) support for internet access, internet service, internal connections, and/or the related network equipment, including Wi-Fi hotspots. Enacted as part of the Consolidated Appropriations Act of 2001, CIPA prohibits certain schools and libraries from receiving funding under section 254(h)(1)(B) of the Communications Act for internet access, internet service, or internal connections, unless they comply with specific internet safety requirements. Specifically, CIPA requires schools and libraries ''having computers with internet access'' to certify that they are enforcing a policy of internet safety that includes the operation of a technology protection measure (*e.g.,* a filter). Congress enacted this law to ensure that children are protected from exposure to harmful material while accessing the internet provided by a school or library. Schools and libraries are therefore required to block or filter visual depictions that are obscene, child pornography, or harmful to minors across all sites, including social media. CIPA also requires monitoring the online activities of minors and providing education about appropriate online behavior, including warnings against cyberbullying.

First and foremost, the Commission remains focused on CIPA's intended purpose and expect schools and libraries to take every step necessary to ensure internet access funded by the E-Rate program remains safe for use by minors. Recognizing that accessing the internet carries inherent risk for minors, many schools have already implemented measures to restrict students' access to certain websites, including social media. For example, one school district in New Mexico relies on a filter to only permit student access to selected sites, while also blocking access to sites deemed non-educational. The top 20 domains where students were denied access by the filter included primarily social media sites, with TikTok and Snapchat comprising roughly 40% of denied requests. Schools and libraries, in compliance with the requirements of CIPA, should continuously evaluate the effectiveness of their internet safety policies and technology protection measures against the shifting nature of potentially harmful online content and the various sites and platforms that make content available to minors. Similarly, many service providers offer network-level filtering in their service offerings to support schools' and libraries' deployment of network-level technology protection measures. The Commission recognizes that determinations of what is considered appropriate are left to the local communities, and it encourages schools and libraries to evaluate the needs of their communities and apply filters as appropriate at the network level to ensure E-Rate-funded internet is safe for use by minors in line with the intent of the law.

The *NPRM* sought comment on the applicability of CIPA when connecting E-Rate-funded Wi-Fi hotspots to the internet off-premises, and proposed to require that CIPA applies if the school or library accepts E-Rate or ECF support for internet access or internet services, or E-Rate support for internal connections. The Commission has previously clarified that Wi-Fi hotspots qualify as eligible ''Network Equipment'' for internet access, internet service, or internal connections and would trigger CIPA compliance for the purchasing school or library. In response to the *NPRM,* several commenters express support for requiring CIPA compliance. The Commission agrees with these commenters and find that the requirements of CIPA apply for off-premises use if the school or library receives E-Rate-funded internet service, internet access, internal connections, or related network equipment (including Wi-Fi hotspots).

The Commission finds the concerns raised about the applicability and privacy implications of CIPA when funding the off-premises use of Wi-Fi hotspots and services unpersuasive. The Commission is not aware of any issues with CIPA compliance arising from the ECF program, in which the Commission applied CIPA to off-premises use. Moreover, its rules require schools and libraries to certify to CIPA compliance, under penalty of reimbursement of funds and enforcement under Federal requirements regarding truthful statements. The Commission has

recognized the ''long history'' supporting this approach to CIPA compliance in the E-Rate application process. The Commission's rules also provide that the certifying entity may be ''the relevant school, school board, local education agency, or other authority with responsibility for administration of the school'' or the relevant ''library, library board, or other authority with responsibility for administration of the library.'' The Commission is therefore confident that participants in E-Rate are well positioned to understand and enforce their CIPA obligations.

Finally, the Commission denies requests that E-Rate funds be used to pay for CIPA implementation costs. The Commission has previously determined that E-Rate recipients are statutorily prohibited from obtaining discounts under the universal service support mechanism for the purchase or acquisition of technology protection measures necessary for CIPA compliance.

Severability

All of the rules that are adopted in the *Order* are designed to further the support provided by the E-Rate program to schools and libraries to ensure affordable access to high-speed broadband and to protect the integrity of the E-Rate program funding. However, each of the separate rules the Commission adopts herein shall be severable. If any of the rules are declared invalid or unenforceable for any reason, it is the Commission's intent that the remaining rules shall remain in full force and effect.

Procedural Matters

Paperwork Reduction Act. This document contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on the information collection requirements contained in the Order as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB, concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Regulatory Flexibility Act. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Addressing the Homework Gap through the E-Rate Program Notice of Proposed Rulemaking,* released in November of 2023. The Federal Communications Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254. Under the schools and libraries universal service support mechanism, also known as the E-Rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, internet access, and internal connections. The Commission's E-Rate program provides support to schools and libraries allowing them to obtain affordable, high-speed broadband services and internal connections, which enables them to connect students and library patrons to critical next-generation learning opportunities and services. The E-Rate program thus plays an important role in closing the digital divide, a top priority for the Commission.

In the *Order,* the Commission addresses the remote learning needs of today's students, school staff, and library patrons and help close the country's digital/educational divide by making the off-premises use of Wi-Fi hotspots and services by students, school staff, and library patrons eligible for E-Rate support. The ECF program highlighted the demand and need for off-premises use of Wi-Fi hotspots and services for educational success. As mentioned in the *NPRM,* ''[b]roadband access is proven to improve individuals' educational outcomes, while lack of access has been shown to severely hamper educational opportunities.'' Allowing E-Rate support for the off-premises use of Wi-Fi hotspots and services is an important step to ensure student and library patrons can take advantage of all available educational opportunities, and to help close the ''homework gap'', especially as the ECF program is winding down and support under the ACP ended as of June 1, 2024.

In the *Order,* the Commission finds that the off-premises use of Wi-Fi hotspots and services constitutes an educational purpose and enhances access to advanced telecommunications and information services for schools and libraries. Applicants will have a calculated budget, limiting the amount of E-Rate support available for Wi-Fi hotspots and services based on applicant size and E-Rate discount rate. This will help schools and libraries create a hotspots lending program, lending Wi-Fi hotspots and services to students or patrons who most need remote access to meet their educational goals. Further, to balance its goal of reducing the digital divide with the responsibility of being a prudent steward of the universal service funds, the Commission adopts funding caps of $15 month for service and $90 for a Wi-Fi hotspot (for 3 years) to keep the costs low, limit the impact on the fund, and to encourage support to only those that need the devices and services the most. The budget mechanism and funding caps, along with other safeguards (*e.g.* certifications, competitive bidding, prohibition against duplicative funding, audits, recordkeeping, usage requirements, etc.) will protect program integrity and prevent potential waste, fraud, and abuse. Additionally, the Commission will ensure that off-premises funding for Wi-Fi on school buses and for Wi-Fi hotspots and wireless internet service does not deter on-premises funding by prioritizing on-campus funding before these off-premises funding requests. Overall, the measures taken in the *Order,* help ensure that off-premises educational opportunities are available to students, school staff, and library patrons with the most need, while also protecting E-Rate's critical funds.

There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules,

adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

Small Businesses, Small Organizations, Small Governmental Jurisdictions. The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 entities fall into the category of ''small governmental jurisdictions.''

Small entities potentially affected by the rules herein are Schools, Libraries, Wired Telecommunications Carriers, All Other Telecommunications, Wireless Telecommunications Carriers (except Satellite), Wireless Telephony, Wired Broadband internet Access Service Providers (Wired ISPs), Wireless Broadband internet Access Service Providers (Wireless ISPs or WISPs), internet Service Providers (Non-Broadband), Vendors of Infrastructure Development or Network Buildout, Telephone Apparatus Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.

In the *Order,* the Commission applies existing or modified E-Rate or ECF recordkeeping requirements for the off-premises use of Wi-Fi hotspots and services. The Commission limits the use of services to those that can be supported by and delivered with Wi-Fi hotspots provided to an individual user. Schools and libraries must adopt and provide notice of an acceptable use policy highlighting that the goal of the hotspot lending program is to provide broadband access to students and library patrons who need it and for educational purposes. When E-Rate-funded hotspots are used in conjunction with hotspots funded via other sources, applicants must document clearly (*e.g.,* individual survey results or attestations) that each individual student needed a Wi-Fi hotspot, in accordance with the AUPs, and may not rely on general or estimated findings about income levels. Applicants will have a calculated budget, limiting the amount of E-Rate support available for off-premises Wi-Fi hotspots and services based on their full-time student count or library square footage, and their category one discount rate.

Additionally, the Commission requires applicants to certify on their FCC Form 486 that they have taken reasonable steps to ensure proper use, to prevent warehousing, and to manage non-usage of devices. This will not be overly burdensome, because applicants already use FCC Form 486 to notify USAC that services have started on a particular funding request. Considering the limited funding available, applicants may not request funding for hotspot devices for future use or to be stored in case of an emergency, and the Commission will not allow applicants to purchase extra devices to store in case of theft, loss, or breakage. The Commission finds that this would be wasteful in this first year of expanding the program. Each device must be associated with a line of service, and applicants may not request more than 45 percent of the three-year hotspot budget in a single funding year.

At least once every 31 days, service providers are required to identify lines of hotspot service that have gone unused for 60 consecutive days and to provide applicants 30 days to use the hotspot before the line of service is terminated. Additionally, service providers must provide data usage reports to applicants at least once per billing period. The reports need to clearly identify the lines that are not being used across billing periods or that will be or have been terminated as a result of non-usage. The usage reports should not be overly burdensome because service providers regularly make such reports available to applicants. Applicants are also required to make these usage reports available to the Commission and/or USAC upon request, including to support program integrity reviews. Service providers are required to certify on their FCC Form 473 (Service Provider Annual Certification (SPAC) Form) that they will comply with this non-usage notice and termination requirement and will not charge the balance for terminated services.

Schools are required to maintain a similar, but modified asset and service inventory requirements to the ECF's program's asset and service inventory requirements, which details equipment and service inventories for each device or service purchased with E-Rate support and provided to an individual student or school staff member. The school's asset inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the full name of the person to whom the equipment was provided; (4) the dates the equipment was loaned out and returned, or the date the school was notified that the equipment was missing, lost, or damaged and (5) service detail. By ''service detail,'' the Commission means the line number or other identifier that associates a device to that particular line of service.

Taking into consideration the State's library patron privacy laws that some libraries must adhere to and existing library circulation systems and practices, the *Order,* adopts a limited asset and service inventory requirement for libraries. The limited asset and service inventory provides libraries more flexibility in accounting and tracking Wi-Fi hotspots and services funded with E-Rate support. For library

participants receiving support for Wi-Fi hotspots and services, the asset and service inventory must identify: (1) the equipment make/model; (2) the equipment serial number; (3) the dates the equipment was loaned out and returned, or the date the library was notified that the equipment was missing, lost, or damaged; and (4) service detail. The asset inventories of schools and libraries will help us verify that there is no warehousing of hotspots, and confirm that hotspots are being used as intended.

Consistent with the E-Rate program's current recordkeeping rule, program participants will be required to retain documentation related to their participation in the E-Rate program, including the asset and service inventories, acceptable use policies, and data usage reports for at least ten years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Commenters are concerned about adopting new recordkeeping requirements, but there is support for maintaining the E-Rate program's existing recordkeeping requirements, due to applicants familiarity with the requirements. The recordkeeping adopted in the *Order,* would be similar to what most applicants, including small entities, are already familiar with and currently undertake for the E-Rate and ECF programs. As such, the Commission anticipates that the costs for compliance created by the decisions in the *Order* will be minimal. The recordkeeping requirements also help protect E-Rate funds from potential waste, fraud and abuse.

The RFA requires an agency to provide, ''a description of the steps the agency has taken to minimize the significant economic impact on small entities. . .including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.''

In the *Order,* the Commission minimizes the economic impact on small entities by making the off-premises use of Wi-Fi hotspots and services eligible for E-Rate funding to support remote learning for students, school staff, and library patrons. The availability of E-Rate funding for Wi-Fi hotspots and services gives applicants, including small entities, the opportunity to administer hotspot lending programs and provide students, school staff, and library patrons the off-premise broadband connectivity needed for educational success. The steps taken in the *Order* are especially important now that the ECF program is winding down and applicants will no longer have ECF funding available to meet the remote learning needs of their students, school staff, or library patrons and as of June 1, 2024, ACP support is no longer available for many households as well.

The Commission considered the benefits of multi-functional devices, including smartphones, tablets, and laptops with built-in wireless connections, but decline to include them at this time because it does not have sufficient information to justify this use and the Commission found them to be more expensive than sole-function Wi-fi hotspots. Further, equipment such as laptops and tablets remain ineligible for E-Rate support. The Commission recognizes that off-premises connectivity provided via Wi-Fi hotspots is not a one-size-fits-all solution, however the actions in the *Order* are a step in creating an economically reasonable method of meeting its statutory obligations.

The *NPRM* asked whether applicants should be required to determine and maintain records of students', school staff members', or library patrons' unmet need by, for example, conducting surveys. Commenters were not in favor of recordkeeping for unmet need. Commenters mentioned that schools and libraries are in the best position to know which students and patrons need the hotspots and services most, and therefore, the Commission should not impose recordkeeping requirements for unmet needs, but should allow schools and libraries to determine who to lend the devices and services to. In consideration of the comments, and finding that a budget mechanism approach for a lending program reduces the need to implement any unmet needs requirements, the *Order* does not impose recordkeeping requirements for unmet needs. Applicants, including small entities, will be able to determine their unmet need and not be burdened by unmet need documentation.

Further, to minimize significant economic impact on applicants, service providers are not allow to bill applicants for the balance that was not paid for by the E-Rate program for terminated lines of service from the non-usage requirements adopted in the *Order.*

Finally, any burdens for applicants presented in the *Order* are outweighed by the benefits to applicants. With funding from the E-Rate program applicants will now have the opportunity to offer off-campus access to broadband to help meet the educational necessities of students, staff, and library patrons.

The Commission will send a copy of the *Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Late-Filed Comments. The Commission notes there were several comments filed in this proceeding after the January 16, 2024 comment deadline and January 29, 2024 reply comment deadline. In the interest of having as complete and accurate record as possible, and because the Commission would be free to consider the substance of those filings as part of the record in any event, the Commission will accept the late-filed comments and waive the requirements of 47 CFR 1.46(b), and have considered them in the *Order.*

Ordering Clauses

Accordingly, it is ordered, that pursuant to the authority contained in sections 1 through 4, 201–202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–202, 254, 303(r), and 403, the Report and Order *is adopted* effective September 19, 2024.

It is further ordered, that pursuant to the authority contained in sections 1 through 4, 201 through 202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–202, 254, 303(r), and 403, part 54 of the Commission's rules, 47 CFR part 54, is AMENDED, and such rule amendments shall be effective September 19, 2024, except for §§ 54.504(a)(1)(x)–(xii), 54.504(g), and 54.516(e)–(g), which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections after approved by the Office of Management and Budget as required by the Paperwork Reduction Act.

It is further ordered that the Office of the Secretary *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, Hotspots, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54–UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

■ 2. Effective September 19, 2024, § 54.500 is amended by adding in alphabetical order definitions of ''Wi-Fi'' and ''Wi-Fi hotspot'' to read as follows:

§ 54.500 Terms and definitions.

* * * * *

Wi-Fi. ''Wi-Fi'' is a wireless networking protocol based on Institute of Electrical and Electronics Engineers standard 802.11.

Wi-Fi hotspot. A ''Wi-Fi hotspot'' is a device that is capable of receiving advanced telecommunications and information services, and sharing such services with another connected device through the use of Wi-Fi.

■ 3. Effective September 19, 2024, § 54.502 is amended by redesignating paragraph (e) as (f) and adding new paragraph (e) as follows:

§ 54.502 Eligible services.

* * * * *

(e) *Off-premises Wi-Fi hotspot program.* Each eligible school district, school operating independently of a school district, library system and library operating independently of a system shall be eligible for support for category one services for a maximum pre-discount budget for off-premises Wi-Fi hotspots and recurring services pursuant to the formula described in paragraphs (e)(1) through (4) of this section and subject to the limitations described in paragraphs (e)(5) and (6) of this section.

(1) *Fixed three-year funding cycle.* Beginning in funding year 2025, each eligible school, school district, library, or library system shall be eligible for a budgeted amount of pre-discount support for category one off-premises Wi-Fi hotspots and recurring services over a three-year funding cycle that will reset every three funding years. Each school, school district, library, or library system shall be eligible for the total available budget less the pre-discount amount of any support received for these services in the prior funding years of that fixed three-year funding cycle.

(2) *School and school district mechanism.* Each eligible school operating independently of a school district or school district shall be eligible for up to a pre-discount price calculated by multiplying the student count by 0.2 and the category one discount rate, rounded up to the nearest ten. This value is then multiplied by $630. The formula will be based on the number of full-time students.

(3) *Library and library system mechanism.* Each eligible library operating independently of a system, or library system shall be eligible for up to a pre-discount price calculated by multiplying the square footage by 0.0055 and the category one discount rate, rounded up to the nearest ten. This value is then multiplied by $630.

(4) *Wi-fi Hotspots and service funding caps.* The available funding for Wi-Fi hotspots is capped at $90 and services at $15 per month. An applicant may not request more than 45 percent of the Wi-Fi hotspot budget in a single funding year. Each E-Rate-supported Wi-Fi hotspot must have an accompanying request for recurring service.

(5) *Non-usage notice and termination requirements.* At least once every 31 days, service providers shall determine whether any E-Rate-supported lines have zero data usage in the prior 60 days and provide notice to the applicant of the particular lines within 5 business days. If there is zero data usage for 90 days, service providers shall discontinue service to such lines.

(6) *Early termination.* Service providers must exclude or waive early termination fees for lines of service associated with Wi-Fi hotspots that are lost, broken, or unused, including those for which service is discontinued in paragraph (e)(5) of this section. Service providers shall not bill applicants for unused lines of service that are discontinued.

(7) *Off-premises hotspots program adjustments.* The Chief, Wireline Competition Bureau, is delegated authority to adjust the limiting mechanism amounts and the Wi-Fi hotspot program cost caps, after seeking comment on a proposed adjustment.

(8) *Eligible users.* Eligible schools and libraries are permitted to request and receive support for the purchase of Wi-Fi hotspots and services for off-premises use by:

(i) In the case of a school, students and school staff; and

(ii) In the case of a library, patrons of the library.

(9) *Per user limitation.* Support for eligible Wi-Fi hotspots and services used off-premises is limited to not more than one Wi-Fi hotspot per student, school staff member, or library patron.

■ 4. Delayed indefinitely, § 54.504 is amended by adding paragraphs (a)(1)(x) through (xii), and (g) to read as follows:

§ 54.504 Requests for services.

(a) * * *

(1) * * *

(x) The school, library, or consortium is not seeking support and reimbursement for eligible equipment and/or services that have been purchased and reimbursed with other Federal, State, Tribal, or local funding.

(xi) The school, library, or consortium will create and maintain an asset and service inventory as required by § 54.516(e).

(xii) The school, library, or consortium will not use Wi-Fi hotspots or service as part of a one-to-one Wi-Fi hotspot initiative, nor will the Wi-Fi hotspots be purchased for future use, emergency use, or use in the case of theft, loss, or breakage.

* * * * *

(g) *Off-premises Wi-Fi hotspot certification on the FCC Form 486.* An eligible school, library, or consortium that includes an eligible school or library receiving support for Wi-Fi hotspots and service for use off-premises must certify on FCC Form 486 that the school, library, or consortium has updated and publicly posted their acceptable use policy consistent with the requirements set forth in § 54.516(f); the Wi-Fi hotspots and/or services the school, library, or consortium purchased using E-Rate support for off-premises use have been activated and made available to students, school staff, and/or library patrons; public notice of their availability has been provided; and the authorized person is not requesting reimbursement for Wi-Fi hotspots and/or services that have not been made available for distribution.

■ 5. Effective September 19, 2024, § 54.506 is added to read as follows:

§ 54.506 Duplicate support.

Entities participating in the E-Rate program may not seek E-Rate support or reimbursement for eligible equipment and services that have been purchased and reimbursed with other Federal, State, Tribal, or local funding.

■ 6. Effective September 19, 2024, § 54.507 is amended by revising paragraph (f)(4) and adding paragraph (f)(5) to read as follows:

§ 54.507 Cap.

* * * * *

(f) * * *

(4) In the event that demand exceeds available funding, requests for category one services used off-premises shall be funded after on-premises category one and category two services.

(5) For paragraphs (f)(1) through (4) of this section, if the remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program. Thus, if there is not enough support to fund all requests at the 40 percent discount level, the Administrator shall allocate funds beginning with those applicants with the highest percentage of NSLP eligibility for that discount level by funding those applicants with 19 percent NSLP eligibility, then 18 percent NSLP eligibility, and shall continue committing funds in the same manner to applicants at each descending percentage of NSLP until there are no funds remaining.

■ 7. Effective September 19, 2024, § 54.513 is amended by revising paragraph (b) to read as follows:

§ 54.513 Resale and transfer of services.

* * * * *

(b) *Disposal of obsolete equipment components of eligible services.* Eligible equipment components of eligible services purchased at a discount under this subpart shall be considered obsolete if the equipment components have been installed for at least five years, except that Wi-Fi hotspots for off-premises use shall be considered obsolete after three years. Obsolete equipment components of eligible services may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

* * * * *

■ 8. Effective September 19, 2024, § 54.516 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 54.516 Auditing and inspections.

(a) * * *

(1) *Schools, libraries, and consortia.* Schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Subject to paragraph (e) of this section, schools, libraries, and consortia shall maintain asset and inventory records for a period of 10 years after purchase.

* * * * *

(b) *Production of records.* Schools, libraries, consortia, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a State education department, the Administrator, the FCC, or any local, State or Federal agency with jurisdiction over the entity. Where necessary for compliance with Federal or State privacy laws, E-Rate participants may produce records regarding students, school staff, and library patrons in an anonymized or deidentified format. When requested by the Administrator or the Commission, as part of an audit or investigation, schools, libraries, and consortia must seek consent to provide personally identifiable information from a student who has reach age of majority, the relevant parent/guardian of a minor student, or the school staff member or library patron prior to disclosure.

* * * * *

■ 9. Delayed indefinitely, § 54.516 is amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 54.516 Auditing and inspections.

* * * * *

(e) *Asset and service inventory requirements*—(1) *Schools.* Schools, school districts, and consortia including any of these entities, shall keep asset and service inventories as follows:

(i) For equipment purchased as components of supported category two services, the asset inventory must be sufficient to verify the actual location of such equipment.

(ii) For equipment needed to make wireless service for school buses functional, the asset inventory must be sufficient to verify the actual location of such equipment.

(iii) For each Wi-Fi hotspot provided to an individual student or school staff member, the asset and service inventory must identify:

(A) The equipment make/model;

(B) The equipment serial number;

(C) The full name of the person to whom the equipment was provided;

(D) The dates the equipment was loaned out and returned, or the date the school was notified that the equipment was missing, lost, or damaged; and

(E) The service detail.

(2) *Libraries.* Libraries, library systems, and consortia including any of these entities, shall keep asset and service inventories as follows:

(i) For equipment purchased as components of supported category two services, the asset inventory must be sufficient to verify the actual location of such equipment.

(ii) For each Wi-Fi hotspot provided to an individual library patron, the asset and service inventory must identify:

(A) The equipment make/model;

(B) The equipment serial number;

(C) The dates the equipment was loaned out and returned, or the date the library was notified that the equipment was missing, lost, or damaged; and

(D) The service detail.

(f) *Acceptable use policies.* Schools, school districts, libraries, library systems, and consortia including any of these entities that receive support for the off-premises use of Wi-Fi hotspots and/or services, shall maintain, provide notice, and, where necessary, update an acceptable use policy that clearly states that the off-premises use of the Wi-Fi hotspot and/or service is primarily for educational purposes as defined in § 54.500 and that the Wi-Fi hotspot and/or service is for use by students, school staff members, and/or library patrons who need it.

(g) *Data usage reports.* Service providers shall provide reports regarding Wi-Fi hotspot data usage for off-premises use to applicants, and applicants shall make such reports available to any representative (including any auditor) appointed by a State education department, the Administrator, the FCC, or any local, State, or Federal agency with jurisdiction over the entity upon request. Data usage reports must be in machine-readable digital format so that information lines can be read and sorted, clearly identifying the lines that are not being used across billing periods and the lines that have been terminated pursuant to § 54.502(e)(5).

■ 10. Effective September 19, 2024, § 54.520 is amended by revising paragraphs (c)(1)(iii)(C), (c)(2)(iii)(C), and (c)(3)(i)(C) to read as follows:

§ 54.520 Children's internet Protection Act certifications required from recipients of discounts under the Federal universal service support mechanism for schools and libraries.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(C) The Children's internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications

services, or is (are) receiving support under the Federal universal service support mechanism for schools and libraries for internet access or internal connections that will not be used in conjunction with a computer owned by the recipient(s).

(2) * * *

(iii) * * *

(C) The Children's internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services, or is (are) receiving support under the Federal universal service support mechanism for schools and libraries for internet access or internal connections that will not be used in conjunction with a computer owned by the recipient(s).

(3) * * *

(i) * * *

(C) The Children's internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments is (are) receiving discount services only for telecommunications services; and, or is (are) receiving support under the Federal universal service support mechanism for schools and libraries for internet access or internal connections that will not be used in conjunction with a computer owned by the recipient(s); and

* * * * *

[FR Doc. 2024–18122 Filed 8–19–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 240229–0063]

RIN 0648–BL80

Fisheries Off West Coast States; Extension of Emergency Action to Temporarily Modify Continuous Transit Limitations for California Recreational Vessels

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: This temporary rule extends emergency measures that modify a continuous transit requirement for California recreational vessels. This modification will temporarily allow recreational vessels to anchor overnight and/or stop to fish for non-groundfish species inside the seasonal Recreational Rockfish Conservation Area off the coast of California, also known as the 50-fathom (91-meter) offshore fishery. These emergency measures were originally authorized until September 30, 2024. This temporary rule extends the emergency measures through December 31, 2024. This emergency measure will prevent the possible cancellation of thousands of recreational fishing trips during the 2024 recreational fishing season off California.

DATES: Effective August 20, 2024 until December 31, 2024.

ADDRESSES:

Electronic Access

This emergency rule is accessible via the internet at the Office of the Federal Register website at *https://ecfr.federalregister.gov/.* The continuing environmental effects of the California recreational fishery were previously considered under the *Environmental Assessment for Amendment 30 to the Pacific Coast Groundfish Fishery Management Plan, 2023–2024 Harvest Specifications, and Management Measures.* This document is available on the NMFS West Coast Region website at: *https://www.fisheries.noaa.gov/species/west-coast-groundfish.html.*

FOR FURTHER INFORMATION CONTACT: Lynn Massey, phone: 562–900–2060, or email: *lynn.massey@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish fishery in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Pacific Fishery Management Council (Council) developed the Pacific Coast Groundfish FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* The Secretary of Commerce approved the Pacific Coast Groundfish FMP and implemented the provisions of the plan through Federal regulations at 50 CFR part 660, subparts C through G. Species managed under the Pacific Coast Groundfish FMP include more than 90 species of roundfish, flatfish, rockfish, sharks, and skates.

On April 1, 2024, NMFS published a temporary emergency rule (89 FR 22352) that allows recreational vessels in California to stop and/or anchor in Federal waters shoreward of the Recreational Rockfish Conservation Area (RCA) line when the fishery is offshore-only. A full description of the issue can be found in the emergency rule (April 1, 2024, 89 FR 22352). NMFS held a public comment period on the emergency rule for 30 days from April 1, 2024, to May 1, 2024 and received no comments. Without extension, the emergency rule would expire on September 30, 2024. The California recreational groundfish seasons in the management areas from the border with Oregon to 36° N lat. are open in the offshore fishery in the months of October and December (closed in November). The management areas south of 36° N lat. are open in the offshore fishery in the months of October, November, and December (50 CFR 660.360(c)(3)(i)(A)). Therefore, this issue remains relevant through the remainder of the calendar year. The Council has developed an action to address this issue permanently, which, if approved, would be effective in 2025. Therefore, consistent with section 305(c)(3) of the Magnuson-Stevens Act, NMFS finds good cause to extend the emergency measures until December 31, 2024.

Emergency Measures

In Federal waters, extending the emergency measures requires a modification to 50 CFR 660.360(c)(3)(i)(A) that requires recreational vessels to continuously transit while shoreward of the RCA boundary. Under the extension of this emergency measure, recreational vessels in California would be allowed to stop and/or anchor in Federal waters shoreward of the Recreational RCA line until December 31, 2024. Recreational fishing vessels off of California would not be able to deploy groundfish recreational gear inside the Recreational RCA, therefore this action would not create any new risks of quillback rockfish mortality. Hook-and-line gear is the primary gear type used by recreational vessels to target groundfish; therefore, prohibiting its deployment while inside the Recreational RCA would help enforce the modified transit provisions while still allowing vessels to use other gear types for non-groundfish fishing (*e.g.,* traps for lobster or hoop nets for bait fish). This extended emergency rule would not change any other elements of the California recreational fishery. For additional explanation on the rationale and effects of this emergency rule extension, see the original emergency

rule published on April 1, 2024 (89 FR 22352).

Classification

NMFS is issuing an extension of this emergency rule pursuant to section 305(3)(c) of the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that this emergency rule is consistent with the Pacific Coast Groundfish FMP, section 305(c) and other provisions of the Magnuson-Stevens Act, the Administrative Procedure Act (APA), and other applicable law. Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries finds prior notice and public comment is not required because it would be impracticable and contrary to the public interest. The reasons justifying promulgation of this rule on an emergency basis, coupled with the fact that the public has had the opportunity to comment on the original emergency rule, make solicitation of additional comment unnecessary, impractical and contrary to the public interest. This rule must be in place before the expiration of the original emergency rule to provide the necessary relief to California recreational fishery participants. Modifying the continuous transit requirement for California recreational vessels would not pose a conservation risk; and it would allow recreational vessels to continue to utilize multi-day and multi-target trips even when the offshore fishery is in place. The impacts of the California recreational fisheries have been prior analyzed in the *Environmental Assessment for Amendment 30 to the Pacific Coast Groundfish Fishery Management Plan, 2023–2024 Harvest Specifications, and Management Measures.*

Additionally, this rule is excepted from the 30-day delayed effectiveness provision of the APA under 5 U.S.C. 553(d)(1) because it relieves a restriction that would otherwise place California recreational vessels at an economic disadvantage in 2024. Immediate implementation of this rule is necessary to prevent the possible cancellation of thousands of fishing trips that could otherwise occur if not for the current continuous transit requirement.

This action is being taken pursuant to the emergency provision of the Magnuson-Stevens Act and is exempt from Office of Management and Budget review.

The Regulatory Flexibility Act does not apply to this emergency rule because prior notice and opportunity for public comment is not required.

This emergency/interim rule contains no information collection requirements under the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Fishing vessels.

Dated: August 14, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C 7001 *et seq.*

■ 2. In § 660.360, revise paragraph (c)(3)(i)(A)(*6*) to read as follows:

* * * * *

(c) * * *

(3) * * *

(i) * * *

(A) * * *

(*6*) Emergency rule revising continuous transit requirement. Effective August 20, 2024 until December 31, 2024, notwithstanding any other section of these regulations, in times and areas where a recreational RCA is closed shoreward of a recreational RCA line (*i.e.,* when an ''off-shore only'' fishery is active in that management area) vessels may stop, anchor in, or transit through waters shoreward of the recreational RCA line so long as they do not have any hook-and-line fishing gear in the water.

* * * * *

[FR Doc. 2024–18581 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240304–0068; RTID 0648–XE201]

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

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear, trawl catcher vessels, and catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using hook-and-line gear to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2024 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective August 19, 2024, through 2400 hours, Alaska local time (A.l.t.), December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Krista Milani, 907–586–2062.

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

The 2024 Pacific cod TAC specified for vessels using jig gear in the BSAI is 848 metric tons (mt) as established by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024) and reallocation (89 FR 24736, April 9, 2024).

The 2024 Pacific cod TAC specified for trawl catcher vessels in the BSAI is 30,754 mt as established by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024).

The 2024 Pacific cod TAC specified for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear in the BSAI is 277 mt as established by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024).

The 2024 Pacific cod TAC allocated to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI is 3,867 mt as established by final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024) and reallocation (89 FR 24736, April 9, 2024).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 750 mt of the 2024

Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*), trawl catcher vessels will not be able to harvest 1,000 mt of the 2024 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*9*), and catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear will not be able to harvest 267 mt of the 2023 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*3*).

Therefore, in accordance with § 679.20(a)(7)(iv)(C), NMFS apportions 750 mt of Pacific cod from the jig vessels to the annual amount specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. Also, in accordance with § 679.20(a)(7)(iii)(A), NMFS reallocates 1,000 mt from trawl catcher vessels, and 267 mt from the catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear to the annual amount specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for 2024 Pacific cod included in final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024) and reallocation (89 FR 24736, April 9, 2024) is revised as follows: 98 mt to vessels using jig gear, 29,754 mt to trawl catcher vessels, 10 mt to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear, and 5,884 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the originally specified apportionment of the Pacific cod TAC. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 14, 2024.

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

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

Dated: August 14, 2024.

Lindsay Fullenkamp,

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

[FR Doc. 2024–18567 Filed 8–19–24; 8:45 am]

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Proposed Rules

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2128; Project Identifier MCAI–2024–00136–T]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2023–03–09, which applies to certain ATR–GIE Avions de Transport Régional Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes. AD 2023–03–09 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023–03–09, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD continues to require the actions in AD 2023–03–09 and would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 4, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2128; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2024–2128.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2024–2128; Project Identifier MCAI–2024–00136–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

The FAA issued AD 2023–03–09, Amendment 39–22334 (88 FR 12139, February 27, 2023) (AD 2023–03–09), for certain ATR–GIE Avions de Transport Régional Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes. AD 2023–03–09 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2022–0201, dated September 26, 2022 (EASA AD 2022–0201) (which corresponds to FAA AD 2023–03–09), to correct an unsafe condition.

AD 2023–03–09 requires revising the existing maintenance or inspection program, as applicable, to incorporate

new or more restrictive airworthiness limitations. The FAA issued AD 2023–03–09 to address fatigue cracking and damage in principal structural elements, which could result in reduced structural integrity of the airplane.

Actions Since AD 2023–03–09 Was Issued

Since the FAA issued AD 2023–03–09, EASA superseded AD 2022–0201 and issued EASA AD 2024–0053, dated February 23, 2024 (EASA AD 2024–0053) (referred to after this as the MCAI), for all ATR 72–101, ATR 72–102, ATR 72–201, ATR 72–202, ATR 72–211, ATR 72–212, and ATR 72–212A airplanes. The MCAI states that new or more restrictive airworthiness limitations have been developed and corrects an unsafe condition.

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after October 16, 2023, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

The FAA is proposing this AD to address fatigue cracking and damage in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2128.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0053 specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits. EASA AD 2024–0053 states that the new limitations include repetitive operational tests as required by EASA AD 2020–0249R1, dated November 30, 2021 (EASA AD 2020–0249R1).

This proposed AD would also require EASA AD 2022–0201, dated September 26, 2022 (EASA AD 2022–0201), which the Director of the Federal Register approved for incorporation by reference as of April 3, 2023 (88 FR 12139, February 27, 2023).

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

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2023–03–09. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2024–0053 described previously except any differences identified as exceptions in the regulatory text of the proposed AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (n)(1) of this proposed AD.

Related AD

EASA AD 2020–0249, dated November 11, 2020, corresponds to FAA AD 2020–26–17, Amendment 39–21372 (85 FR 81795, December 17, 2020) (AD 2020–26–17), which applies to Model ATR42 and ATR72 airplanes. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this proposed AD would terminate the requirements of AD 2020–26–17 for Model ATR72 airplanes.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to retain the IBR of EASA AD 2022–0201 and incorporate EASA AD 2024–0053 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0201 and EASA AD 2024–0053 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0201 or EASA AD 2024–0053 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0201 or EASA AD 2024–0053. Material required by EASA AD 2022–0201 and EASA AD 2024–0053 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2024–2128 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) may be used unless the actions, intervals, are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 41 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2023–03–09, Amendment 39–22334 (88 FR 12139, February 27, 2023); and

■ b. Adding the following new AD:

ATR–GIE Avions de Transport Régional: Docket No. FAA–2024–2128; Project Identifier MCAI–2024–00136–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 4, 2024.

(b) Affected ADs

(1) This AD replaces AD 2023–03–09, Amendment 39–22334 (88 FR 12139, February 27, 2023) (AD 2023–03–09).

(2) This AD affects AD 2020–26–17, Amendment 39–21372 (85 FR 81795, December 17, 2020) (AD 2020–26–17).

(c) Applicability

This AD applies to ATR—GIE Avions de Transport Régional Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before October 16, 2023.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking and damage in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2023–03–09, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before September 21, 2022: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0201, dated September 26, 2022 (EASA AD 2022–0201). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2022–0201, With No Changes

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–03–09, with no changes.

(1) Where EASA AD 2022–0201 refers to its effective date, this AD requires using April 3, 2023 (the effective date of AD 2023–03–09).

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0201 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2022–0201 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after April 3, 2023 (the effective date of AD 2023–03–09).

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0201 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0201, or within 90 days after April 3, 2023 (the effective date of AD 2023–03–09), whichever occurs later.

(5) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0201 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2022–0201 does not apply to this AD.

(i) Retained Provisions for Alternative Actions, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2023–03–09, with a new exception. Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0201.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0053, dated February 23, 2024 (EASA AD 2024–0053). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2024–0053

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2024–0053.

(2) Paragraph (3) of EASA AD 2024–0053 specifies revising ''the approved AMP,'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024–0053 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2024–0053, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0201 do not apply to this AD.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0053.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), intervals, and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2024–0053.

(m) Terminating Action for AD 2020–26–17

Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of AD 2020–26–17, for Model ATR72 airplanes only.

(n) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (o) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(o) Additional Information

For more information about this AD, contact Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3220; email: *shahram.daneshmandi@faa.gov.*

(p) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2024–0053, dated February 23, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on April 3, 2023 (88 FR 12139, February 27, 2023).

(i) European Union Aviation Safety Agency (EASA) AD 2022–0201, dated September 26, 2022.

(ii) [Reserved]

(5) For EASA AD 2022–0201 and AD 2024–0053, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find these EASA ADs on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on August 12, 2024.

Victor Wicklund,

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

[FR Doc. 2024–18482 Filed 8–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2024; Project Identifier MCAI–2024–00140–T]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–200, and CN–235–300 airplanes. This proposed AD was prompted by a torn bulkhead seal found jamming the nose landing gear (NLG) emergency cable pulley. Due to the similarity of design, the main landing gear (MLG) emergency cable pulley could be exposed to the same failure mode. This proposed AD would require repetitive inspections and corrective actions for damage of affected bulkhead seals and retainer rings, and repetitive replacement of affected parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 4, 2024.

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

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

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

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2024–2024.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2024–2024; Project Identifier MCAI–2024–00140–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024–0054, dated February 26, 2024 (EASA AD 2024–0054) (also referred to as the MCAI), to correct an unsafe condition for all Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–200, and CN–235–300 airplanes. The MCAI states a torn bulkhead seal was found jamming the NLG emergency cable pulley. Due to the similarity of design, the MLG emergency cable pulley could be exposed to the same failure mode.

The FAA is proposing this AD to address a jammed emergency cable pulley, which could prevent the emergency extension of the landing gears when required, causing damage to the airplane and possible injury to occupants.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2024.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0054 specifies procedures for repetitive general visual inspections for any type of damage, of the bulkhead seals and the retainer rings, and, depending on findings, replacement. EASA AD 2024–0054 also requires repetitive replacement of affected parts.

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

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2024–0054 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2024–0054 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024–0054 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024–0054 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2024–0054. Material required by EASA AD 2024–0054 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–2024 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 10 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 5 work-hours × $85 per hour = $425	$0	Up to $425	Up to $4,250.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$365	$535

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Docket No. FAA–2024–2024; Project Identifier MCAI–2024–00140–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 4, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Defense and Space S.A. Model CN–235, CN–235–200, and CN–235–300 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by a torn bulkhead seal found jamming the nose landing gear emergency cable pulley. Due to the similarity of design, the main landing gear emergency cable pulley could be exposed to the same failure mode. The FAA is issuing this AD to address this potential unsafe condition, which could prevent the emergency extension of the landing gears when required, causing damage to the airplane and possible injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024–0054, dated February 26, 2024 (EASA AD 2024–0054).

(h) Exceptions to EASA AD 2024–0054

(1) Where EASA AD 2024–0054 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph 3.1.1 of the Alert Operators Transmission (AOT) specified in EASA AD 2024–0054, states ''each year (1 Year between 8 and 10 Years since component installation) since the inspection,'' for this AD, replace that text with ''within one year after the last inspection''.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0054.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2024–0054 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Additional Information

For more information about this AD, contact Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3220; email: *shahram.daneshmandi@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference

(IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0054, dated February 26, 2024.

(ii) [Reserved]

(3) For EASA AD 2024–0054, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on August 12, 2024.

Victor Wicklund,

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

[FR Doc. 2024–18479 Filed 8–19–24; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AB15

Energy Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking; public hearing.

SUMMARY: In response to a recent notice of proposed rulemaking on the Energy Labeling Rule, one commenter, Dyson, Inc. (''Dyson''), requested an opportunity to present oral comments on proposed air cleaner labeling. In response, the Commission will hold a virtual oral hearing for the requester to provide its comments.

DATES: The oral hearing will be conducted virtually starting at 1:00 p.m. Eastern Time on September 19, 2024.

ADDRESSES: The Hearing Participant (*i.e.,* Dyson) must submit any materials it intends to present at the oral hearing by following the instructions in Part III of the **SUPPLEMENTARY INFORMATION** section below. Write ''Air Cleaner Labeling Oral Hearing (Matter No. R611004)'' on any documentary submission and file it at *electronicfilings@ftc.gov*. If Dyson prefers to file a documentary submission on paper, please send it via overnight service to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex L), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Julia Ensor, 202–326–2377; and Hong Park, 202–326–2158.

SUPPLEMENTARY INFORMATION: On February 2, 2024 (89 FR 7566), the Commission published a notice of proposed rulemaking (''NPRM'') containing proposed amendments to improve the Energy Labeling Rule (''Rule'') (16 CFR part 305), including energy labels for several new consumer product categories such as air cleaners, clothes dryers, miscellaneous refrigeration products, and portable electric spas. In response, the Commission received 29 comments, which are posted on the docket at *https://www.regulations.gov/docket/FTC-2024-0008*.

I. Dyson's Request To Present Oral Views

In addition to soliciting written comments, the NPRM invited interested parties to request an opportunity to present oral data, views, and comments on the proposed amendments.[1] In response, Dyson asked to present its view on the Department of Energy's (''DOE'') test procedures for the proposed air cleaner labels. Specifically, Dyson requested the

> . . . opportunity to present oral comments and other materials (such as audio/visual and/or visual aids) that Dyson believes would be helpful to the FTC in better understanding: (1) the misleading outputs of the DOE's test procedure as applied to room size coverage and energy efficiency claims for air cleaners, (2) the inapplicability of AHAM AC1 to real-world situations, (3) whether AHAM AC1 includes outdated elements and whether it has been subject to thorough review, (4) the feasibility of a one-size-fits-all room size test that may not capture the nuances of different air cleaners, and (5) if a one-size-fits-all room size test is appropriate, potential ways in which the DOE's test procedure could be modified to be more accurate and consistent, and avoid potential consumer confusion and harm for the reasons outlined above.

Therefore, the Commission issues this notice of oral hearing for Dyson on labeling for air cleaners.

II. Conduct of the Oral Hearing for Air Cleaner Labeling

Commission staff will preside over the oral hearing virtually using video conferencing at 1:00 p.m. Eastern Time on September 19, 2024. The presiding officer (Julia Ensor or Hong Park) will ensure the orderly conduct of the oral hearing and place the transcript and any written submissions by Dyson into the rulemaking record. The oral hearing will be available for the public to watch live from the Commission's website, *https://www.ftc.gov*. The oral hearing will be limited to the party requesting submission of oral comments, Dyson, and its concerns regarding labeling for air cleaners raised in its request. *See* section I, *supra*.

III. Making an Oral Statement or Documentary Submission

Dyson's oral statement will be limited to 20 minutes, although the oral statement may be supplemented by documentary submissions as described below, and the presiding officer may grant an extension of time for good cause shown. Dyson will be provided with instructions as to how to participate in the virtual hearing.

Dyson must submit any materials (*e.g.,* slides) it intends to present at the oral hearing by submitting the materials to *electronicfilings@ftc.gov* on or before September 12, 2024.[2] Write ''Air Cleaner Labeling Oral Hearing (Matter No. R611004)'' on the submission. If Dyson files a documentary submission under this section, the documentary submission—including Dyson's name and State—will be placed on the rulemaking record of this proceeding, including on the website *https://www.regulations.gov*.

Because any documentary submission will be placed on the rulemaking record, Dyson is solely responsible for making sure the documentary submission does not include sensitive or confidential information. In particular, the documentary submission should not contain sensitive personal information, such as Social Security numbers; dates of birth; driver's license numbers or other State identification numbers or foreign country equivalent; passport

[1] The Energy Policy and Conservation Act (''EPCA''), which directs FTC to issue energy labeling requirements, states that ''the Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under [section 6294(b)(1)]].'' 42 U.S.C. 6294(b)(2); *see also* 16 CFR 1.26(c). Because this Rule is promulgated under EPCA, the procedural requirements for rules promulgated under section 18 of the FTC Act (15 U.S.C. 57a) do not apply here.

[2] Pursuant to 16 CFR 1.26(c), if, by reason of the limitations imposed, Dyson cannot complete the presentation of its suggestions, Dyson may, within 24 hours, file a written statement covering those relevant matters that it did not orally present. Any such statement must be submitted on the rulemaking docket and otherwise follow the instructions set out in this document for documentary submissions.

numbers; financial account numbers; or credit or debit card numbers. Dyson is also solely responsible for making sure the documentary submission does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, the documentary submission should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Documentary submissions containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the documentary submission must include the factual and legal basis for the request and must identify the specific portions to be withheld from the public record. *See* Commission Rule 4.9(c). Documentary submissions will be kept confidential only if the General Counsel grants the request in accordance with the law and the public interest. Once a documentary submission has been posted publicly at *https://www.regulations.gov*—as legally required by Commission Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove it, unless the submitter submits a confidentiality request that meets the requirements for such treatment under Commission Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of documentary submissions to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive documentary submissions it receives from Dyson. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site information/privacypolicy*.

If Dyson needs assistance complying with these instructions, it should indicate as much in a written submission, and the Commission will endeavor to provide accommodations. If Dyson does not have the computer technology necessary to participate in video conferencing, it will be able to participate in the oral hearing by telephone; it should indicate as much in its submission.

IV. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2024–17105 Filed 8–19–24; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–111629–23]

RIN 1545–BM80

Guidance Regarding Elections Relating to Foreign Currency Gains and Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; partial withdrawal of proposed rulemaking.

SUMMARY: This document contains proposed regulations regarding the time for making and revoking certain elections relating to foreign currency gain or loss.

DATES: Written or electronic comments and requests for a public hearing must be received by October 18, 2024. As of August 20, 2024, proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) and proposed § 1.988–7(c) through (e), contained in the notice of proposed rulemaking published in the **Federal Register** of December 19, 2017 (82 FR 60135), are withdrawn.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–111629–23) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (''Treasury Department'') and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send hard copy submissions to: CC:PA:01:PR (REG–111629–23), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning proposed § 1.954–2(g)(3)(ii) and (iii) and (g)(4)(iii), Edward Tracy at (202) 317–6934; concerning proposed § 1.988–7(c) and (d), Shane Ward at (202) 317–6938; concerning submissions of comments or requests for a public hearing, Vivian Hayes at (202) 317–6901 (not toll free numbers) or *publichearings@irs.gov*.

SUPPLEMENTARY INFORMATION:

Background

I. Elections Under § 1.954–2(g)

In general, section 954(c)(1)(D) of the Internal Revenue Code and § 1.954–2(g) provide that foreign personal holding company income (''FPHCI'') includes the excess of foreign currency gains over foreign currency losses attributable to any section 988 transactions. Under § 1.954–2(g)(3) and (4), two different elections are available to United States shareholders (''U.S. shareholders'') that are controlling United States shareholders (''controlling U.S. shareholders'') of a controlled foreign corporation (''CFC'') with respect to the CFC's computation of its FPHCI. First, under § 1.954–2(g)(3), controlling U.S. shareholders may elect to exclude foreign currency gain or loss otherwise includible in the CFC's FPHCI computation under § 1.954–2(g) and instead include such foreign currency gain or loss in the category (or categories) of subpart F income to which such gain or loss relates (the ''§ 1.954–2(g)(3) election''). Second, § 1.954–2(g)(4) provides that controlling U.S. shareholders may elect to treat as FPHCI all foreign currency gains or losses attributable to any section 988 transaction (except those described in § 1.954–2(g)(5)) and any section 1256 contract that would be a section 988 transaction but for section 988(c)(1)(D) (the ''§ 1.954–2(g)(4) election'' and, together with the § 1.954–2(g)(3) election, the ''§ 1.954–2(g) elections''). A § 1.954–2(g)(4) election supersedes a § 1.954–2(g)(3) election. Under § 1.954–2(g)(3)(ii) and (g)(4)(ii), controlling U.S. shareholders make either of the § 1.954–2(g) elections on behalf of the CFC by filing a statement with their original income tax return for the ''taxable year of [the U.S. shareholders] ending with or within the taxable year of the [CFC]'' for which the election is made, clearly indicating that the election has been made.

II. Revocations Under § 1.954–2(g)(3)(iii) and (g)(4)(iii) and Proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii)

Under § 1.954–2(g)(3)(iii) and (g)(4)(iii), a CFC's controlling U.S. shareholders may revoke a § 1.954–2(g) election by or with the consent of the Commissioner. As part of the 2017 notice of proposed rulemaking in respect of § 1.988–7 (the ''2017 proposed regulations'') (described further in sections III and IV of this Background section of the preamble), revisions were proposed to the rules for revoking § 1.954–2(g) elections. 82 FR 60135, 60142–60143. Under the 2017 proposed regulations, a CFC's controlling U.S. shareholders would be permitted to revoke the CFC's § 1.954–2(g) election at any time. Proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii). Further, the 2017 proposed regulations would provide that if the election is revoked, a new election cannot be made until the sixth taxable year following the year in which the previous election was revoked, and the subsequent election cannot be revoked until the sixth taxable year following the year in which the subsequent election was made. *Id.* Similar to the procedure for making § 1.954–2(g) elections, a CFC's controlling U.S. shareholders would revoke § 1.954–2(g) elections on behalf of the CFC under the 2017 proposed regulations by filing a statement that clearly indicates that the election has been revoked with their original or amended income tax returns for ''the taxable year of [the U.S. shareholders] ending with or within the taxable year of the [CFC] for which the election is revoked.'' *Id.* The 2017 proposed regulations permitted taxpayers to rely on proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) to revoke § 1.954–2(g) elections for taxable years ending on or after December 19, 2017, subject to a consistency requirement. 82 FR 60135, 60141.

III. Election Under Proposed § 1.988–7(c)

Under the 2017 proposed regulations, a taxpayer, including a CFC, would be permitted to elect to use a mark-to-market method of accounting for section 988 gain or loss with respect to certain section 988 transactions (the ''proposed § 1.988–7 election''). Proposed § 1.988–7(a). Under proposed § 1.988–7(c) of the 2017 proposed regulations, a taxpayer makes a proposed § 1.988–7 election by filing a statement that clearly indicates that the election has been made with its timely-filed original Federal income tax return for the taxable year for which the election is made. In the case of a CFC, the controlling U.S. shareholders make the proposed § 1.988–7 election on behalf of the CFC by filing a statement that clearly indicates that the election has been made with their timely-filed, original Federal income tax returns for the ''taxable year of [the U.S. shareholders] ending with or within the taxable year of the [CFC] for which the election is made.'' The preamble to the 2017 proposed regulations stated that taxpayers are permitted to rely on proposed § 1.988–7(c) to make a proposed § 1.988–7 election for taxable years ending on or after December 19, 2017, subject to a consistency requirement. 82 FR 60135, 60141.

IV. Revocation Under Proposed § 1.988–7(d)

Under the 2017 proposed regulations, a taxpayer, including a CFC, would be permitted to revoke its proposed § 1.988–7 election at any time. Proposed § 1.988–7(d). Further, the 2017 proposed regulations provided that if a proposed § 1.988–7 election has been revoked, a new proposed § 1.988–7 election cannot be made until the sixth taxable year following the year in which the previous election was revoked, and a subsequent election cannot be revoked until the sixth taxable year following the year in which the subsequent election was made. *Id.* Under the 2017 proposed regulations, a taxpayer would revoke a proposed § 1.988–7 election by filing a statement that clearly indicates that the election has been revoked with its original or amended Federal income tax return for the taxable year for which the election is revoked. *Id.* The preamble to the 2017 proposed regulations stated that taxpayers are permitted to rely on proposed § 1.988–7(d) to revoke a proposed § 1.988–7 election for taxable years ending on or after December 19, 2017, subject to a consistency requirement. 82 FR 60135, 60141.

Explanation of Provisions

I. Proposed Modification to § 1.954–2(g)(3)(ii) and Withdrawal and Re-Proposal of Proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii)

The Treasury Department and the IRS have received several inquiries regarding the procedure for making § 1.954–2(g) elections. Specifically, practitioners have noted that the language of § 1.954–2(g)(3)(ii) is inconsistent with other filing requirements with respect to CFCs, which generally must be filed by U.S. shareholders for the taxable year of a CFC that ends with or within the taxable year of the U.S. shareholders. *See, e.g.,* §§ 1.964–1(c)(3)(ii) and 1.951A–2(c)(7)(viii)(A)(*1*)(*i*). Additionally, the practitioners noted that under § 1.954–2(g)(3)(ii), inconsistencies in treatment can arise between a controlling U.S. shareholder that owns a CFC with a matching taxable year and a controlling U.S. shareholder that owns a CFC with a short year or whose taxable year differs from the controlling U.S. shareholder's taxable year. With respect to CFCs with short years, a controlling U.S. shareholder will be prevented from making § 1.954–2(g) elections for those years if no year of the controlling U.S. shareholder ends with or within the CFC's short year.

To address the issues raised by practitioners' inquiries, and to promote consistency with other filing requirements with respect to CFCs, these proposed regulations would revise § 1.954–2(g)(3)(ii) to provide that controlling U.S. shareholders make a § 1.954–2(g) election on behalf of a CFC by filing a statement with their original income tax returns for the taxable years of the controlling U.S. shareholders in which or with which the taxable year of the CFC for which the election is made ends, clearly indicating that the election has been made. Additionally, these proposed regulations withdraw proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) as included in the 2017 proposed regulations and re-propose them to provide that controlling U.S. shareholders revoke a § 1.954–2(g) election on behalf of a CFC by filing a statement with their original income tax returns for the taxable years of the controlling U.S. shareholders in which or with which the taxable year of the CFC for which the revocation is made ends, clearly indicating that the § 1.954–2(g) election has been revoked.

Under newly proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii), however, controlling U.S. shareholders would be precluded from revoking a § 1.954–2(g) election made on behalf of a CFC (including an initial election) until the sixth taxable year following the year in which the election was made. Further, proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) would provide that if a CFC's controlling U.S. shareholders revoke a § 1.954–2(g) election, they may not make a new § 1.954–2(g) election on behalf of the CFC until the sixth taxable year following the year in which the previous election was revoked. This change to the revocation rules under proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) would limit taxpayers from opportunistically making or revoking a § 1.954–2(g) election; for example, this change would limit taxpayers' ability to selectively recognize certain foreign currency losses. The Treasury

Department and the IRS request comments on this aspect of proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii).

II. Proposed Amendments to Proposed § 1.988–7(c) and (d)

The Treasury Department and the IRS are of the view that the rules for making and revoking a proposed § 1.988–7 election under the 2017 proposed regulations provided an excessive amount of flexibility. The 2017 proposed regulations would have permitted a taxpayer to make a proposed § 1.988–7 election after the end of the year to which the election would apply, which would give the taxpayer the ability to determine with certainty whether the election would be beneficial for that year. For example, and as one comment noted, the ability to make and revoke an initial election without restriction would provide a one-time opportunity to selectively recognize foreign currency losses by making an initial election for a particular year after the taxpayer has determined that it has net foreign currency losses on section 988 transactions for a taxable year and then immediately revoking the election.

Upon further consideration of the 2017 proposed regulations and the comments received, the Treasury Department and the IRS are of the view that the time for making and revoking a proposed § 1.988–7 election (permitting a taxpayer to use a mark-to-market method of accounting for section 988 gain or loss with respect to section 988 transactions) should accord with the time for making and revoking an election under section 475(e) or (f) (a ''section 475 election'') (permitting a dealer in commodities or a trader in securities or commodities to use the mark-to-market method of accounting). The Treasury Department and the IRS are of the view that aligning proposed § 1.988–7 with the rules for making a section 475 election will deter selectively recognizing losses. The rules for making or revoking a section 475 election deter taxpayers from selectively recognizing losses by requiring that taxpayers generally make an election on the tax return for the year immediately preceding the year to which the election applies, *see* section 5.03 of Rev. Proc. 99–17, 1999–1 C.B. 503, 504–505, and then by requiring taxpayers to apply that election to all subsequent years unless the taxpayers obtain the consent of the Commissioner. *See* section 475(e)(3) and (f)(3). The Treasury Department and the IRS expect that implementing similar rules for making a proposed § 1.988–7 election would also prevent selective recognition of losses. The Treasury Department and the IRS also expect that aligning the rules for making a proposed § 1.988–7 election with the rules for making a section 475 election will foster compliance, especially for those taxpayers already making a section 475 election, by providing the same procedures for making or revoking these elections to adopt a mark-to-market method of accounting. As a result, these proposed regulations would permit taxpayers to make and revoke a proposed § 1.988–7 election under rules similar to the rules for making and revoking a section 475 election.

Proposed § 1.988–7(d) would provide that the election made pursuant to proposed § 1.988–7(c) is subject to rules similar to those imposed on section 475 elections. The election would be effective for the taxable year for which it is made and all subsequent years. Proposed § 1.988–7(d) also would provide that a taxpayer may revoke the election only with the consent of the Commissioner.

To adopt a method of accounting as described in proposed § 1.988–7, a taxpayer must receive the consent of the Commissioner to implement that change of accounting method in accordance with the applicable administrative procedures provided in the Internal Revenue Bulletin. Section 446(e); § 1.446–1(e)(2); *see also* Rev. Proc. 2015–13, 2015–5 I.R.B. 419; Rev. Proc. 2024–1, 2024–1 I.R.B. 1. When these proposed regulations are finalized, the Treasury Department and the IRS expect to issue a revenue procedure setting forth the terms and conditions under which a change of method of accounting with respect to the mark-to-market method under § 1.988–7 will be granted. The Treasury Department and the IRS anticipate that these terms and conditions will address: whether this change should be subject to a cutoff method or another method requiring a section 481(a) adjustment; the appropriate circumstances under which a taxpayer must establish a substantial business reason for the change; whether there are appropriate circumstances under which an automatic change in method of accounting should be permitted; and the extent to which these terms and conditions should incorporate or deviate from the terms and conditions for changing a mark-to-market method of accounting under section 475(e) or (f), see section 24 of Rev. Proc. 2024–23.

The Treasury Department and the IRS solicit comments regarding all aspects of the rules for making and revoking the proposed § 1.988–7 election, including the terms and conditions under which a change of method of accounting with respect to the mark-to-market method under § 1.988–7 will be granted and whether to require that related parties apply a proposed § 1.988–7 election in a consistent manner, such as in the case of a section 987 election under proposed § 1.987–1(g)(2) (88 FR 78134, 78164–78165). Comments submitted pursuant to the 2017 proposed regulations will also be considered.

III. Other Nonsubstantive Changes

These proposed regulations would make nonsubstantive changes to § 1.954–2(g)(3)(ii) and re-proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii). These changes are intended to improve the clarity of those regulations, including by updating the cross-references to the definition of controlling U.S. shareholders from ''§ 1.964–1(c)(5)'' to ''§ 1.964–1(c)(5)(i)'' to more precisely reference the definition with respect to CFCs and not other foreign corporations, and by providing that a § 1.954–2(g) election must be made on a timely-filed, original Federal income tax return for consistency with proposed § 1.988–7 elections.

IV. Applicability Dates

These proposed regulations generally are proposed to apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register** (the ''finalization date''). *See* proposed §§ 1.954–2(i)(3) and 1.988–7(e). The remainder of this section of the preamble discusses taxpayers' ability to rely on the proposed regulations and the treatment of certain elections, or revocation of elections, made in earlier periods.

A. Section 954 regulations

For taxable years ending before the finalization date, taxpayers may rely on proposed § 1.954–2(g)(3)(ii) and re-proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) in making and revoking § 1.954–2(g) elections, provided that they consistently apply proposed § 1.954–2(g)(3)(ii) and (iii) and (g)(4)(iii) to such taxable years. Furthermore, with respect to any taxpayer that made a § 1.954–2(g) election in the manner set forth in proposed § 1.954–2(g)(3)(ii) of these proposed regulations for a taxable year beginning after November 6, 1995 (as provided in TD 8618, 60 FR 46517, 46527), and ending before August 19, 2024, and any taxpayer that revoked a § 1.954–2(g) election in the manner set forth in proposed § 1.954–2(g)(3)(iii) or (g)(4)(iii) of these proposed regulations for a taxable year ending on or after

December 19, 2017, and before August 19, 2024, the IRS will respect such election or revocation as having been timely made for the relevant taxable year. As of August 19, 2024, taxpayers may no longer rely on proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) included in the 2017 proposed regulations.

B. Section 988 regulations

For taxable years ending before the finalization date, taxpayers may rely on proposed § 1.988–7(c) and (d) in making and revoking the proposed § 1.988–7 election, provided that they consistently apply proposed § 1.988–7(c) and (d) to such taxable years. Furthermore, if a taxpayer made or revoked a proposed § 1.988–7 election on behalf of a CFC pursuant to the reliance provided by 82 FR 60135, 60141, but filed the election or revocation in the manner set forth in proposed § 1.988–7(c)(3)(ii), the IRS will respect such election or revocation as having been timely made for the relevant taxable year. However, as of August 19, 2024, taxpayers may no longer rely on proposed § 1.988–7(c) and (d) included in the 2017 proposed regulations.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (''PRA'') generally requires that a Federal agency obtain the approval of the Office of Management and Budget (''OMB'') before collecting information from the public, whether the collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information included in these proposed regulations are in proposed § 1.954–2(g)(3)(ii) and (iii) and (g)(4)(iii) and proposed § 1.988–7(c). The information provided will generally be used by the IRS for tax compliance purposes or by taxpayers to report making or revoking elections.

The collection of information in these proposed regulations is for taxpayers to make or revoke an election as detailed in proposed § 1.954–2(g)(3)(ii) and (iii) and (g)(4)(iii) and proposed § 1.988–7(c). Taxpayers must inform the IRS of these elections and revocations by attaching a statement to their tax return. The information is required to be provided by taxpayers that are U.S. shareholders of CFCs and shareholders of certain foreign corporations that make or revoke an election with respect to the treatment of a foreign corporation's foreign currency gains and losses. The likely respondents are individual, business, and trust and estate filers.

For purposes of the PRA, the reporting and recordkeeping burden associated with the collections of information in proposed § 1.954–2(g)(3)(ii) and (iii) and (g)(4)(iii) and proposed § 1.988–7(c) will be accounted for in OMB control number 1545–0074 for individual filers and 1545–0123 for business filers.

The IRS will seek OMB approval under a new OMB Control Number (1545–NEW) for trust and estate filers.

Estimated total annual reporting and recordkeeping burden for trusts and estates filers: 61 hours.

Estimated average annual burden per respondent: 1 hour.

Estimated number of respondents: 61.

Estimated frequency of responses: one-time election or revocation.

The collections of information contained in these proposed regulations have been submitted to OMB for review in accordance with the PRA. Commenters are strongly encouraged to submit public comments electronically. Written comments and recommendations for the proposed information collection should be sent to *www.reginfo.gov/public/do/PRAMain,* with copies to the IRS. Find this particular information collection by selecting ''*Currently under Review—Open for Public Comments,*'' then by using the search function. Submit electronic submissions for the proposed information collection to the IRS via email at *pra.comments@irs.gov* (indicate REG–111629–23 on the Subject line). Comments on the collection of information should be received by September 19, 2024. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility; the accuracy of the estimated burden associated with the proposed collection of information; how the quality, utility, and clarity of the information to be collected may be enhanced; how the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6) (''RFA''), it is hereby certified that these proposed regulations would not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the RFA (''small entities'').

Generally, the proposed regulations affect certain U.S. taxpayers that have foreign operations. Specifically, the proposed regulations affect U.S. shareholders that make or revoke certain elections with respect to the computation of their CFCs' foreign currency gains and losses. The number of small entities potentially affected by the proposed regulations is unknown and cannot be reliably estimated; however, it is unlikely to be a substantial number because taxpayers with foreign operations are typically larger businesses. Due to the low expected number of potentially affected taxpayers, and the fact that the proposed regulations only amend the timing of these elections and revocations that taxpayers may already be making, the Treasury Department and the IRS believe the proposed regulations should not materially impact a substantial number of small entities within the meaning of the RFA.

Accordingly, the Secretary certifies that the proposed regulations will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

IV. Section 7805(f)

Pursuant to section 7805(f), these proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses. The Treasury Department and the IRS also request comments from the public on the analysis in part III of the Special Analyses.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may

result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. This proposed rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of these proposed regulations, including the procedures for making and revoking a proposed § 1.988–7 election. Any comments submitted will be made available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Edward Tracy and Shane Ward of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices, and other guidance cited in this document are published in the Internal Revenue Bulletin or Cumulative Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *www.irs.gov.*

Partial Withdrawal of Proposed Regulations

Under the authority of 26 U.S.C. 7805, proposed § 1.954–2(g)(3)(iii) and (g)(4)(iii) and proposed § 1.988–7(c) through (e), contained in the notice of proposed rulemaking that was published in the **Federal Register** on December 19, 2017 (82 FR 60135), are withdrawn.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.954–2 is amended by:

■ 1. Revising the first sentence of paragraph (g)(3)(ii) introductory text;
■ 2. Revising paragraphs (g)(3)(iii) and (g)(4)(iii); and
■ 3. Adding two sentences to the end of paragraph (i)(3).

The revisions and additions read as follows:

§ 1.954–2 Foreign personal holding company income.

* * * * *

(g) * * *

(3) * * *

(ii) * * * The controlling United States shareholders, as defined in § 1.964–1(c)(5)(i), make the election on behalf of the controlled foreign corporation by filing a statement with their timely-filed, original Federal income tax returns for the taxable year of the United States shareholders in which or with which the taxable year of the controlled foreign corporation for which the election is made ends, clearly indicating that the election has been made. * * *

(iii) *Revocation of election.* An election under this paragraph (g)(3) is effective for the taxable year of the controlled foreign corporation for which it is made and all subsequent taxable years of such corporation unless revoked by the Commissioner or as provided in this paragraph (g)(3)(iii) by the controlling United States shareholders (as defined in § 1.964–1(c)(5)(i)) of the controlled foreign corporation. Once made, an election under this paragraph (g)(3) cannot be revoked by the controlled foreign corporation's controlling United States shareholders (as defined in § 1.964–1(c)(5)(i)) until the sixth taxable year following the year in which the previous election was made. Further, if an election has been revoked under this paragraph (g)(3)(iii), a new election may not be made until the sixth taxable year following the year in which the previous election was revoked. The controlling United States shareholders revoke an election on behalf of a controlled foreign corporation by filing a statement that clearly indicates such election has been revoked with their original or amended income tax returns for the taxable year of such United States shareholders in which or with which the taxable year of the controlled foreign corporation for which the election is revoked ends.

* * * * *

(4) * * *

(iii) *Revocation of election.* An election under this paragraph (g)(4) is effective for the taxable year of the controlled foreign corporation for which it is made and all subsequent taxable years of such corporation unless revoked by the Commissioner or as provided in this paragraph (g)(4)(iii) by the controlling United States shareholders (as defined in § 1.964–1(c)(5)(i)) of the controlled foreign corporation. Once made, an election under this paragraph (g)(4) cannot be revoked by the controlled foreign corporation's controlling United States shareholders (as defined in § 1.964–1(c)(5)(i)) until the sixth taxable year following the year in which the previous election was made. Further, if an election has been revoked under this paragraph (g)(4)(iii), a new election may not be made until the sixth taxable year following the year in which the previous election was revoked. The controlling United States shareholders revoke an election on behalf of a controlled foreign corporation by filing a statement that clearly indicates such election has been revoked with their original or amended income tax returns for the taxable year of such United States shareholders in which or with which the taxable year of the controlled foreign corporation for which the election is revoked ends.

* * * * *

(i) * * *

(3) * * * Paragraphs (g)(3)(ii) and (iii) and (g)(4)(iii) of this section apply to taxable years of controlled foreign corporations ending on or after [DATE OF PUBLICATION OF FINAL RULE]. For taxable years of controlled foreign corporations ending before [DATE OF PUBLICATION OF FINAL RULE], see § 1.954–2(g)(3)(ii) and (iii) and (g)(4)(iii) as in effect and contained in 26 CFR part 1, as revised April 1, 2024.

Par. 3. Section 1.988–7, as proposed to be added at 82 FR 60143 (December 19, 2017), is amended by adding paragraphs (c) through (e) to read as follows:

§ 1.988–7 Election to mark-to-market foreign currency gain or loss on section 988 transactions.

* * * * *

(c) *Time and manner of election*—(1) *In general.* Except as otherwise provided in this paragraph (c), a taxpayer makes the election under paragraph (a) of this section by filing a statement that clearly indicates that the election has been made with the taxpayer's timely-filed (excluding extensions) original Federal income tax return for the taxable year immediately preceding the year for which the election is made.

(2) *New taxpayers.* In the case of a taxpayer for which no Federal income tax return was required to be filed for the taxable year immediately preceding the year for which the election is made, the taxpayer makes the election under paragraph (a) of this section by preparing a statement that clearly indicates the election has been made and:

(i) Placing the statement in the taxpayer's books and records by no later than 2 months and 15 days after the first day of the year for which the election is made; and

(ii) Filing the statement with the taxpayer's original Federal income tax return for the taxable year for which the election is made.

(3) *Elections on behalf of CFCs.* In the case of a controlled foreign corporation, the controlling United States shareholders (as defined in § 1.964–1(c)(5)(i)) make the election under paragraph (a) of this section on behalf of the controlled foreign corporation by preparing a statement that clearly indicates the election has been made and:

(i) Placing the statement in the controlled foreign corporation's books and records by no later than 2 months and 15 days after the first day of the year of the controlled foreign corporation for which the election is made; and

(ii) Filing the statement with their original Federal income tax returns for the taxable year of the United States shareholders in which or with which the taxable year of the controlled foreign corporation for which the election is made ends.

(d) *Revocation.* An election under paragraph (a) of this section is effective for the taxable year for which it is made and all subsequent taxable years unless the election is revoked with the consent of the Commissioner.

(e) *Applicability dates.* This section applies to taxable years of taxpayers ending on or after [DATE OF PUBLICATION OF FINAL RULE]. Paragraph (c)(3) of this section applies to taxable years of controlled foreign corporations ending on or after [DATE OF PUBLICATION OF FINAL RULE], and to taxable years of United States shareholders in which or with which the taxable years of those controlled foreign corporations end.

Heather C. Maloy,

Acting Deputy Commissioner.

[FR Doc. 2024–18281 Filed 8–19–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0786; FRL–10405–01–R4]

Air Plan Approval; North Carolina; Second Period Regional Haze Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve in part and conditionally approve in part a regional haze State Implementation Plan (SIP) revision submitted by the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), dated April 4, 2022 (''Haze Plan'' or ''2022 Plan'') under the Clean Air Act (CAA or Act) and EPA's Regional Haze Rule (RHR) for the regional haze program's second planning period. North Carolina's 2022 SIP submission addresses the requirement that states must periodically revise their long-term strategies for making reasonable progress toward 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 planning period of the regional haze program. EPA is taking this action pursuant to sections 110 and 169A of the Act.

DATES: Written comments must be received on or before September 19, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2022–0786, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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. 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 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.*

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via telephone at (404) 562–9031 or electronic mail at *notarianni.michele@epa.gov.*

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I. What action is EPA proposing?

On April 4, 2022, the North Carolina DAQ submitted a revision to its SIP to address regional haze for the second planning period. DAQ 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.[1] EPA is proposing to approve in part and conditionally approve in part North Carolina's Haze Plan. For the reasons discussed in this document, EPA is proposing to approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(1), (f)(4) through(6), and (g)(1) through(5). EPA is proposing to conditionally approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(2), (f)(3), and (i)(2) through(4) due to concerns with the legal and practicable enforceability of certain permit conditions identified in the Haze Plan for incorporation into the SIP.

Consistent with CAA section 110(k)(3), EPA may approve in part portions of the SIP submittal if those portions meet the all the applicable requirements. Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of conditional approval of the plan revision. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval. North Carolina submitted a letter, dated July 30, 2024, (''Commitment Letter''), requesting partial conditional approval of its Haze Plan and committing to submit a SIP revision containing specific enforceable measures no later than one year from the effective date of a final conditional approval action, should EPA finalize this partial conditional approval as proposed.[2] EPA is proposing to conditionally approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(2), (f)(3), and (i)(2) through(4). These elements are fully separable from the elements proposed for partial approval. If North Carolina meets its commitment to submit the required SIP revision that adequately addresses the identified concerns related to the enforceability of certain permit conditions by the specified deadline and EPA approves the submission, then the conditional approval will be converted to a full approval. See Section IV.C.3.b of this document for a discussion of the enforceability concerns resulting in the proposed partial conditional approval and the commitments in North Carolina's Commitment Letter.

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.[3] 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. *See* 45 FR 80084 (December 2, 1980). These regulations, codified at 40 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,[4] 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 (SO_2), nitrogen oxides (NO_X), and, in some cases, volatile organic compounds (VOC) and ammonia (NH_3)). Precursor pollutants react in the atmosphere to form fine particulate matter (particles less than or equal to 2.5 micrometers (μm) in diameter, $PM_{2.5}$), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the perception of clarity and color, as well as visible distance.[5]

[1] In a letter dated August 15, 2022, EPA found that North Carolina's Haze Plan meets the completeness criteria outlined in 40 CFR part 51, Appendix V. A completeness determination does not constitute a finding on the merits of the submission or whether it meets the relevant criteria for SIP approval. The August 15, 2022, letter is included in the docket for this proposed rulemaking.

[2] The Commitment Letter is in the docket for this proposed rulemaking.

[3] 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.

[4] 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.

[5] 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 defined and 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}). EPA's ''Guidance on Regional Haze 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,* EPA Office of Air Quality Planning and Standards, Research

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);[6] *see also* 40 CFR 51.308(b), (f) (establishing submission dates for iterative regional haze SIP revisions); 64 FR at 35768. 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 (LTSs) originally due July 31, 2018, and every ten years thereafter. 64 FR at 35768. 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.[7] *Id.* at 35721.

Much of the focus in the first planning period of the regional haze program, which ran from 2007 through 2018, was on satisfying states' BART obligations. First planning period SIPs were additionally required to contain LTSs for making reasonable progress toward the national visibility goal, of which BART is one component. The core required elements for the first planning period SIPs (other than BART) are laid out in 40 CFR 51.308(d). Those provisions require 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 planning period including from implementation of states' LTSs. 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 (also referenced herein as ''the four 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. *See* 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 toward the national visibility goal over time in each Class I area.[8] 40 CFR 51.308(d)(1)(i)(B), and (d)(2). The 1999 RHR also provided that states' LTSs must include the ''enforceable emissions limitations, compliance, schedules, and other measures as necessary to achieve the reasonable progress goals.'' *See* 40 CFR 51.308(d)(3). In establishing their LTSs, 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. *See* 40 CFR 51.308(d)(3)(i) and (ii). Section 51.308(d) also contains seven additional factors states must consider in formulating their LTSs, 40 CFR 51.308(d)(3)(v), as well as provisions governing monitoring and other implementation plan requirements. *See* 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) and (h), and to consult with the Federal Land Manager(s)[9] (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) that apply for the second and subsequent planning 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 planning periods focused on the requirement that states' SIPs contain LTSs for making reasonable progress toward 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 planning period SIPs from July 31, 2018, to July 31, 2021, clarified the order of analysis and the relationship between RPGs and the LTSs, 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 planning period regional haze SIP submissions are addressed in detail below.

EPA provided guidance to the states for their second planning period SIP submissions in the preamble to the 2017

Triangle Park (August 20, 2019). The formula for the deciview is 10 ln (b_{ext})/10 Mm^{-1}). *See* 40 CFR 51.301.

[6] 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.'' *See* 40 CFR 51.308(d), (f).

[7] In addition to each of the 50 states, 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).

[8] EPA established the URP framework in the 1999 RHR to provide ''an equitable analytical approach'' to assess 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. *See* 64 FR at 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 control measures and the URP.'' *See* 82 FR 3078, 3084 (January 10, 2017).

[9] 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.'' *See* 40 CFR 51.301.

RHR Revisions as well as in subsequent stand-alone guidance documents. In August 2019, EPA issued its 2019 Guidance.[10] On July 8, 2021, EPA issued a memorandum containing ''Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period'' (''2021 Clarifications Memo'').[11] Additionally, EPA had 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''),[12] 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'').[13]

As previously explained in the 2021 Clarifications Memo, EPA intends the second planning 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 (NAAQS) and Prevention of Significant Deterioration (PSD) programs, as further emission reductions may be necessary to adequately protect visibility in Class I areas throughout the country.[14]

B. Roles of Agencies in Addressing Regional Haze

Because the air pollutants 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),[15] which include representation from state and Tribal governments, EPA, and FLMs, were developed in the lead-up to the first planning 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 PM and other pollutants leading to regional haze, and help states meet the consultation requirements of the RHR.

The Southeastern States Air Resource Managers, Inc. (SESARM), one of the five RPOs described above, is a collaborative effort of state and local agencies and Tribal governments established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the Southeast. SESARM's coalition to conduct regional haze work is referred to as Visibility Improvement State and Tribal Association of the Southeast (VISTAS).[16] The member states, local air agencies, and Tribal governments of VISTAS are Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; the local air agencies, represented by the President of Metro 4 or designee; [17] and the Tribes located within the VISTAS region, represented by the Eastern Band of the Cherokee Indians. The Federal partner members of VISTAS are EPA, U.S. National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), and U.S. Forest Service (USFS).[18]

III. Requirements for Regional Haze Plans for the Second Planning 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 planning period of the regional haze program by July 31, 2021. Each state's SIP must contain a LTS 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 LTSs, with the order of the requirements in 40 CFR 51.308(f)(1) through (f)(3) generally mirroring the order of the steps in the reasonable progress analysis [19] and (f)(4) through (f)(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 LTS. *See* 40 CFR 51.308(f), (f)(2). For each Class I area within its borders, a state must then

[10] See footnote 5.

[11] ''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.* EPA Office of Air Quality Planning and Standards, Research Triangle Park (July 8, 2021).

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

[13] ''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.* EPA Office of Air Quality Planning and Standards, Research Triangle Park (June 3, 2020).

[14] *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'').

[15] RPOs are sometimes also referred to as ''multi-jurisdictional organizations,'' or MJOs. For the purposes of this notice, the terms RPO and MJO are synonymous.

[16] The VISTAS technical work under SESARM is described at this website: *https://www.metro4-sesarm.org/content/vistas-regional-haze-program.*

[17] Metro 4 is a Tennessee corporation which represents the local air pollution control agencies in EPA's Region 4 in the Southeast. See *https://www.metro4-sesarm.org/content/metro-4-about-us.*

[18] The NPS, FWS, and USFS are collectively referred to as the ''Federal Land Managers'' or ''FLMs'' throughout this document.

[19] EPA explained in the 2017 RHR Revisions that the Agency was adopting new regulatory language in 40 CFR 51.308(f) that, unlike the structure in 51.308(d), ''tracked the actual planning sequence.'' 82 FR 3091 (January 10, 2017).

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 LTS 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 planning period.

Additionally, as further explained below, the RHR at 40 CFR 51.3108(f)(2)(iv) separately provides five ''additional factors'' [20] 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 LTS. After a state has developed its LTS, 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 planning 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 toward the statutory goal of preventing any future and remedying any existing anthropogenic visibility impairment in Class I areas. *See* 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 planning period must address the requirements in 40 CFR 51.308(g)(1) through (5) pertaining to periodic reports describing progress toward 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. *See* 40 CFR 51.308(i).

[20] The five ''additional factors'' for consideration in section 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.

A state must submit its regional haze SIP and subsequent SIP revisions to 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. *See* 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 at 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, EPA's 2019 Guidance provides recommendations for how such an assessment might be accomplished, including, where appropriate, using the determinations previously made for the first planning 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 (URP)

As part of assessing whether a SIP submission for the second planning period is providing for reasonable progress toward 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 subsection 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 Guidance [21] 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 at 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).[22] The RHR provides that the relevant sets of days for visibility tracking purposes are the 20 percent clearest days (the 20 percent of monitored days in a calendar year with the lowest values of the deciview index) and 20 percent most impaired days (the 20 percent of monitored days in a calendar year with the highest amounts of anthropogenic visibility impairment).[23] *See* 40 CFR 51.301. A state must calculate visibility conditions for both the 20 percent clearest days and 20 percent 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). *See* 40 CFR 51.308(f)(1)(i), (iii). States must also calculate natural visibility conditions for the clearest days and most impaired days [24] by estimating the conditions that

[21] 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.* EPA Office of Air Quality Planning and Standards, Research Triangle Park (September 2003).

[22] The ''deciview index'' means a value for a day that is derived from calculated or measured light extinction, such that uniform increments of the index correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to very obscured. The deciview index is calculated using Interagency Monitoring of Protected Visual Environments (IMPROVE) aerosol measurements. *See* 40 CFR 51.301.

[23] This notice also refers to the 20 percent clearest and 20 percent most anthropogenically impaired days as the ''clearest'' and ''most impaired'' or ''most anthropogenically impaired'' days, respectively.

[24] The RHR at 40 CFR 51.308(f)(1)(ii) contains an error related to the requirement for calculating two

Continued

would exist on those two sets of days absent anthropogenic visibility impairment. *See* 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 planning 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.[25] 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 3107, 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 (LTS) for Regional Haze

The core component of a regional haze SIP submission is a LTS that addresses regional haze in each Class I area within a state's borders and each Class I area that may be affected by emissions from the state. The LTS ''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).'' *See* 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 (FFA). 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 toward 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 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'' in a state's LTS in its SIP. *See* 40 CFR 51.308(f)(2).

Section 51.308(f)(2)(i) provides the requirements for the FFA. 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 control analysis (*i.e.,* FFA). *See* 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 planning period, EPA generally expects that each state will analyze at least SO_2 and NO_X in selecting sources and determining control measures. *See* 2019 Guidance at 12 and 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.'' *See* 2021 Clarifications Memo at 3.

EPA explained in the 2021 Clarifications Memo that each state has an obligation to submit a LTS 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. *See* 2021 Clarifications Memo at 4.[26]

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).

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.''

[25] 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 at 3093.

[26] 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) (December 2016), Docket Number EPA–HQ–OAR–2015–0531, U.S. Environmental Protection Agency at 87–88, available at *www.regulations.gov.*

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 planning period.[27] This is accomplished by considering the four factors—''the costs of compliance, the time necessary for compliance, and the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.'' *See* CAA 169A(g)(1). EPA has explained that the FFA 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.'' *See* 82 FR at 3091. Thus, for each source a state has selected for a FFA,[28] it 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.'' *See* 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.'' *See* 2021 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 FFAs, 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. *See* 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 FFA and those that have forgone a FFA 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.[29] 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 FFA. *See* 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. *See* 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 toward the national visibility goal must be included in a state's LTS and in its SIP.[30] If the outcome of a FFA is a new, additional emission reduction measure for a source, that new measure is necessary to make reasonable progress toward remedying existing anthropogenic visibility impairment and must be included in the SIP. If the outcome of a FFA 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 toward 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 FFA 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*

[27] The CAA provides that ''[i]n determining reasonable progress there shall be taken into consideration'' the four statutory factors. *See* CAA 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-factor analysis for the second planning period.

[28] ''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 at 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. *See* 2021 Clarifications Memo at 7–8.

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

[30] 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 at 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).

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 LTS 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 LTS 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.[31] 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.

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 LTS for making reasonable progress. Additionally, the RHR at 40 CFR 51.3108(f)(2)(iv) separately provides five ''additional factors'' [32] that states must consider in developing their LTSs: (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 LTS. The 2019 Guidance provides that a state may satisfy this requirement by considering these additional factors in the process of selecting sources for a FFA, 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 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 FFAs. *See* 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. *See* 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. *See* 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. *See* 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. *See* 40 CFR 51.308(f)(2)(ii)(C).

D. Reasonable Progress Goals (RPGs)

RPGs ''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.'' *See* 82 FR at 3091. Their primary purpose is to assist the public and EPA in assessing the reasonableness of states' LTSs for making reasonable progress toward 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—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, measured in deciviews, are intended to reflect the projected impacts, on each set of days,

[31] *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).

[32] The five ''additional factors'' for consideration in section 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.

of the emission reduction measures the state with the Class I area and other contributing states have included in their LTSs for the second planning period.[33] 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' LTSs (as well as other measures required under the CAA), they cannot be determined before states have conducted their FFAs and determined the control measures that are necessary to make reasonable progress.[34] *See* 2021 Clarifications Memo at 6.

For the second planning period, the RPGs are set for 2028. RPGs 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.'' *See* 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 LTSs that are projected to achieve visibility conditions on the most impaired days that are better than the baseline period and shows 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 at 3097–98.

So that RPGs may also serve as a metric for assessing the amount of progress a state is making toward the 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 FFA required under 40 CFR 51.308(f)(2)(i), that no additional emission reduction measures would be reasonable to include in its LTS. 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 FFA is conducted) is not a ''safe harbor'' from the CAA's and RHR's requirement that all states must conduct a FFA to determine what emission reduction measures constitute reasonable progress.[35] 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 planning period is ''reasonable progress.'' *See* 82 FR at 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 subsection 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 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. *See* 40 CFR 51.308(f)(6), (f)(6)(i), (f)(6)(iv). The IMPROVE monitoring data is used to determine the 20 percent most anthropogenically impaired and 20 percent clearest sets of days every year at each Class I area and tracks visibility impairment over time.

All states' implementation plans 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), (iii). Section 51.308(f)(6)(v) further requires that all states' implementation plans 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.[36] All states' implementation plans must also provide for any other

[33] 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. *See* 2019 Guidance at 47–48.

[34] The 2019 Guidance allows for the possibility of post-modeling adjustments to the RPGs to account for the fact that final LTS decisions for the state or for other states may not be known until late in the process, or even after SIPs are submitted. See 2019 Guidance at 46–48. See also, 82 FR 3078, 3080 (January 10, 2017).

[35] In lieu of conducting a FFA, states may elect to show the source has existing effective controls for the particular pollutants under evaluation or that the source is shutting down by the end of the planning period (or close to it).

[36] *See* ''Step 8: Additional requirements for regional haze SIPs'' in 2019 Guidance at 55.

elements, including reporting, recordkeeping, and other measures, that are necessary for states to assess and report on visibility. *See* 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.[37]

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.'' [38] 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 (RAVI), the state must include in its SIP revision for the second planning period an appropriate strategy for evaluating such impairment.

F. Requirements for Periodic Reports Describing Progress Toward the RPGs

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 planning period. The regional haze progress report requirement is designed to inform the public and EPA about a state's implementation of its existing LTS 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 implementation plan revision for the second planning period is required to describe the status of implementation of all measures included in the state's LTS, including BART and reasonable progress emission reduction measures from the first planning period, and the resulting emissions reductions. *See* 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 planning 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 planning period progress reports. *See* 40 CFR 51.308 (f)(5) and (g)(3)(iii). Since different states submitted their first planning 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 planning period progress reports. *See* 40 CFR 51.308 (f)(5) and (g)(4). 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' implementation plan 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 LTS for the first planning period.

G. Requirements for State and Federal Land Manager (FLM) 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.'' *See* 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. *See* 40 CFR 51.308(i)(4).

IV. EPA's Evaluation of North Carolina's Regional Haze Submission for the Second Planning Period

On April 4, 2022, DAQ submitted a revision to the North Carolina SIP to address the State's regional haze obligations for the second planning period, which runs through 2028, in accordance with CAA sections 169A and the RHR at 40 CFR 51.308(f).[39] The following sections contain EPA's evaluation of North Carolina's Haze Plan with respect to the requirements of the CAA and RHR for the second

[37] *Id.*

[38] 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.

[39] On June 27, 2012, EPA finalized a limited approval of North Carolina's first planning period regional haze plan submitted to EPA on December 17, 2007 (77 FR 38185). On June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the December 17, 2007, submission. On May 24, 2016, EPA approved North Carolina's October 31, 2014, BART alternative demonstration, which was a revision to its regional haze plan and converted the limited approval of the December 17, 2007, submission to a full approval (81 FR 32652). On August 25, 2016, EPA approved North Carolina's May 31, 2013, progress report for the first planning period (81 FR 58400).

planning period of the regional haze program.

North Carolina has five Class I areas, two of which are shared with Tennessee: Linville Gorge National Wilderness Area (''Linville Gorge''); Shining Rock National Wilderness Area (''Shining Rock''); Swanquarter National Wilderness Area (''Swanquarter''); Great Smoky Mountains National Park (''Great Smoky Mountains'') (NC/TN); and Joyce Kilmer-Slickrock National Wilderness Area (''Joyce Kilmer'') (NC/TN). The following sections describe North Carolina's Haze Plan, including analyses conducted by VISTAS and North Carolina's determinations based on those analyses, North Carolina's assessment of progress made since the first planning period in reducing emissions of visibility impairing pollutants, and the visibility improvement progress at its Class I areas and nearby Class I areas. This document also contains EPA's evaluation of North Carolina's Haze Plan against the requirements of the CAA and RHR for the second planning period of the regional haze program.

A. Identification of Class I Areas

1. RHR Requirement: 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 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 40 CFR 51.308(f)(2), which requires each state's plan to include a LTS that addresses regional haze in such Class I areas. To develop a state's LTS, a state must first determine which Class I areas may be affected by its own emissions. For out-of-state Class I areas, states must assess their visibility impacts on a statewide basis which is discussed in Section IVA.2, below, and on a source specific basis which is discussed in Section IV.C.2, below.

2. State Assessment: To address 40 CFR 51.308(f), North Carolina identified Class I areas affected by North Carolina's statewide emissions of visibility impairing pollutants and then consulted with states with Class I areas affected by North Carolina's statewide emissions. DAQ presented the results of Particulate Matter Source Apportionment Technology (PSAT)[40] modeling which VISTAS conducted to estimate the projected impact of statewide SO_2 and NO_X emissions across all emissions sectors in 2028 on total light extinction for the 20 percent most impaired days in all Class I areas in the VISTAS modeling domain.[41] In Table 7–14 of the 2022 Plan, DAQ lists the total sulfate plus nitrate contribution from all source sectors in North Carolina to total visibility impairment for the 20 percent most impaired days at Class I areas in the VISTAS modeling domain in inverse megameters (Mm^{-1}). North Carolina's top three highest sulfate plus nitrate impairment impacts to out-of-state Class I areas are: Wolf Island National Wilderness Area (Wolf Island) (0.78 Mm^{-1}) and Okefenokee National Wilderness Area (Okefenokee) (0.67 Mm^{-1}) in Georgia and James River Face National Wilderness Area (James River Face) (0.45 Mm^{-1}) in Virginia.[42]

Based on these results for the out-of-state Class I areas, North Carolina consulted with the VISTAS states (see Section 10.1 and Appendix F–1 of the 2022 Plan) and the Mid-Atlantic/Northeast Visibility Union (MANE–VU)[43] states (see Section 10.3 and Appendix F–4 of the 2022 Plan) which contain Class I areas located nearest to North Carolina and to which North Carolina's emissions had the highest sulfate plus nitrate contribution to total sulfate plus nitrate visibility impairment. The purpose of this consultation was to identify whether North Carolina's statewide impacts to the VISTAS and MANE–VU states are significant enough to develop coordinated emission management strategies containing the emission reductions necessary to make reasonable progress.[44] With respect to MANE–VU, none of the states in this RPO contacted North Carolina for consultation with the exception of New Hampshire and New Jersey. North Carolina's consultation with MANE–VU, New Hampshire, and New Jersey is further discussed in Section IV.C.2.e of this document and Section I.E of EPA's Technical Support Document (TSD) for this proposed rulemaking.

3. EPA Evaluation: EPA proposes to conclude that North Carolina adequately addressed 40 CFR 51.308(f) regarding identification of its statewide visibility impacts to Class I areas outside of the State and consulting with states with Class I areas which may reasonably be anticipated to cause or contribute to any impairment of visibility due to North Carolina's emissions. EPA proposes to agree with the State's approach of focusing on SO_2 and NO_X impacts from North Carolina on the basis that for current visibility conditions evaluated for the 2014–2018 period, ammonium sulfate is the dominant visibility impairing pollutant at most of the VISTAS Class I areas followed by organic carbon and ammonium nitrate (depending on the area).[45] VISTAS focused on controllable emissions from point sources, and thus, initially considered impacts from sulfates and nitrates on regional haze at Class I areas affected by VISTAS states. EPA agrees that North Carolina adequately identified Class I areas outside of North Carolina that may be affected by emissions from within the State and consulted with affected states. The information submitted by North Carolina supports this finding, because it shows that the state analyzed its statewide sulfate and nitrate contributions to total visibility impairment at out-of-state Class I areas in Table 7–14 of the 2022 Plan; none of

[40] PSAT is Particulate Matter Source Apportionment Technology, which is an option in the photochemical visibility impact modeling performed by VISTAS that is a methodology to track the fate of both primary and secondary PM. PSAT allows emissions to be tracked (''tagged'') for individual facilities as well as various combinations of sectors and geographic areas (*e.g.,* by state). The PSAT results provide the modeled contribution of each of the tagged sources or groups of sources to the total visibility impacts.

[41] DAQ did not include primary PM (directly emitted) data in this analysis because the PSAT analyses performed by VISTAS tagged statewide emissions of SO_2 and NO_X and did not tag primary total PM emissions in the analysis after concluding that emissions of the PM precursors SO_2 and NO_X, particularly from point sources, are projected to have the largest impact on visibility impairment in 2028 and that SO_2 and NO_X are the most significant visibility impairing pollutants from controllable anthropogenic sources.

[42] In contrast, North Carolina's sulfate plus nitrate impairment impacts to the State's Class I areas are: 0.95 Mm^{-1}, 1.13 Mm^{-1}, 1.83 Mm^{-1}, 0.89 Mm^{-1}, 0.43 Mm^{-1} for Linville Gorge, Shining Rock, Swanquarter, Great Smoky Mountains, and Joyce Kilmer, respectively.

[43] MANE–VU was established in 2001 to assist the Mid-Atlantic and Northeast states in planning and developing their regional haze SIP revisions. The MANE–VU states are Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

[44] North Carolina did not consult with states with Class I areas in the Central States Air Resource Agencies (CENSARA), Lake Michigan Air Directors' Consortium (LADCO), and Western Regional Air Partnership (WRAP) RPO regions because North Carolina's statewide sulfate plus nitrate contribution to total sulfate plus nitrate impairment in the Class I areas in these regions was relatively low (*i.e.,* ranging from zero percent to 0.12 percent of total sulfate plus nitrate impairment). Additionally, no states in CENSARA, LADCO, and WRAP requested consultation with North Carolina regarding its statewide emissions.

[45] See Figures 2–17 and 2–18 of the 2022 Plan for the VISTAS Class I areas. See also section IV.C.2.a of this notice.

the Class I areas in MANE–VU and VISTAS have 2028 RPGs on the 20 percent most impaired days above the URP;[46] with the exception of Joyce Kilmer, the visibility impairment due to emissions from North Carolina at in-state Class I areas is greater than the impairment due to emission from North Carolina at out-of-state Class I areas; and the State completed consultation with VISTAS and MANE–VU states via the RPO processes and, in some cases, on a state-to-state basis and documented those consultations.[47]

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

1. RHR Requirement: 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 clearest days and most impaired days, natural visibility conditions for clearest days and most impaired days, progress to date for the clearest days and most impaired 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. *See* 40 CFR 51.308(f)(1)(vi)(B).

2. State Assessment: In the 2022 Plan, North Carolina calculated baseline visibility conditions (2000–2004) in Table 2–3; current visibility conditions (2014–2018) in Table 2–5;[48] and natural visibility conditions in Table 2–2 for the 20 percent most impaired and 20 percent clearest days for the State's Class I areas in deciviews as shown in Table 1, below. North Carolina also calculated for its Class I areas the actual progress made toward natural visibility conditions to date since the baseline period (current minus baseline), and the additional progress needed to reach natural visibility conditions from current conditions (natural minus current), in deciviews, in Table 2–6 (for the 20 percent most impaired days) and Table 2–7 (for the 20 percent clearest days) as shown in Table 2, below.

TABLE 1—BASELINE, CURRENT, AND NATURAL VISIBILITY CONDITIONS IN NORTH CAROLINA'S CLASS I AREAS IN DECIVIEWS (dv)

Class I area	Baseline 20% clearest days	Baseline 20% most impaired days	Current 20% clearest days	Current 20% most impaired days	Natural 20% clearest days	Natural 20% most impaired days
Great Smoky Mountains	13.58	29.11	8.35	17.21	4.62	10.05
Joyce Kilmer	13.58	29.11	8.35	17.21	4.62	10.05
Linville Gorge	11.11	28.05	7.61	16.42	4.07	9.70
Shining Rock	7.70	28.13	4.40	15.49	2.49	*10.25
Swanquarter	12.34	23.79	10.61	16.30	5.71	*10.01

*The 2022 Plan indicates in Table Ex–1–3 and Table 8–1 that natural conditions are 10.01 and 9.79 deciviews for Shining Rock and Swanquarter, respectively. Tables Ex–1–1, Table 2–2, and Tables 2–6 reflect the correct values shown here which are derived from EPA's June 3, 2020, Technical Addendum available at: *https://www.epa.gov/sites/default/files/2020-06/documents/memo_data_for_regional_haze_technical_addendum.pdf.*

TABLE 2—ACTUAL PROGRESS FOR VISIBILITY CONDITIONS IN NORTH CAROLINA'S CLASS I AREAS IN DECIVIEWS (dv)

Class I area	Current minus baseline for 20% clearest days	Current minus baseline for 20% most impaired days	Natural minus current for 20% clearest days	Natural minus current for 20% most impaired days
Great Smoky Mountains	−5.23	−11.90	−3.73	−7.16
Joyce Kilmer	−5.23	−11.90	−3.73	−7.16
Linville Gorge	−3.50	−11.63	−3.54	−6.72
Shining Rock	−3.30	−12.64	−1.91	−5.24
Swanquarter	−1.73	−7.49	−4.90	−6.29

Additionally, Figures 3–1, 3–2, 3–3, and 3–4 of the 2022 Plan provide the URP figures for the 20 percent most impaired days for Great Smoky Mountains (which also represents the URP for Joyce Kilmer), Linville Gorge, Shining Rock, and Swanquarter, respectively. The URPs were developed using EPA guidance[49] and used data collected from the 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. All North Carolina Class I areas are projected to be below the 2028 URP values for the second planning period based on VISTAS' modeling.

3. EPA Evaluation: EPA finds that North Carolina's Haze Plan meets the requirements of 40 CFR 51.308(f)(1) because the State provided for its five Class I areas: baseline, current, and natural visibility conditions for the 20

[46] See Memorandum from Richard A. Wayland, OAQPS, to Regional Air Division Directors re: Availability of Modeling Data and Associated Technical Support Document for the EPA's Updated 2028 Visibility Air Quality Modeling (September 19, 2019), available at: *https://www.epa.gov/sites/default/files/2019-10/documents/updated_2028_regional_haze_modeling-tsd-2019_0.pdf.*

[47] See Section IV.C.2.e of this notice and Section I.E of EPA's TSD for additional detail regarding consultation.

[48] The period 2014–2018 represents current visibility conditions for North Carolina because it is the most recent five-year period for which visibility monitoring data were available at the time of SIP development.

[49] ''Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program.'' EPA Office of Air Quality Planning and Standards, Research Triangle Park (December 20, 2018). *https://www.epa.gov/sites/default/files/2018-12/documents/technical_guidance_tracking_visibility_progress.pdf* and *https://www.epa.gov/sites/default/files/2020-06/documents/memo_data_for_regional_haze_technical_addendum.pdf.*

percent clearest days and most impaired days; progress to date for the 20 percent clearest days and most impaired days; differences between the current visibility conditions and natural visibility conditions; and the URP for each Class I area in North Carolina. Therefore, EPA is proposing to approve the portions of the North Carolina SIP submission related to 40 CFR 51.308(f)(1).

C. LTS for Regional Haze

1. RHR Requirement: Each state having a Class I area within its borders or emissions that may affect visibility in a Class I area must develop a LTS for making reasonable progress toward the national visibility goal. CAA 169A(b)(2)(B). As explained in Section II 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 LTS 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 FFAs are necessary to make reasonable progress and must be in the LTS. If the conclusion of a FFA and other measures necessary to make reasonable progress for a particular source is that no new measures are reasonable, 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 LTS. In developing its LTS, 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 FFA) for the second planning period and how the four factors were taken into consideration in selecting the emission reduction measures for inclusion in the LTS. 40 CFR 51.308(f)(2)(iii).

States may rely on technical information developed by the RPOs of which they are members to select sources for FFA and to satisfy the documentation requirements under 40 CFR 51.308(f). Where an RPO has performed source selection and/or FFAs (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.

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. 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.''

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 the EPA (or a more recent year), with a 12-month exemption period for newly submitted data.

2. State Assessment: To develop North Carolina's LTS, DAQ set criteria to identify sources to evaluate for potential controls using the four factors outlined in Section II.B, selected sources based on those criteria, considered the four factors for the selected sources, provided emissions limits and supporting conditions for adoption into the regulatory portion of the SIP, and evaluated the five additional factors at 40 CFR 51.308(f)(2)(iv).

a. Source Selection Criteria: With respect to 40 CFR 51.308(f)(2)(i), North Carolina, through VISTAS, used a two-step source selection process: (1) Area of Influence (AoI) analysis, and (2) PSAT [50] modeling for sources exceeding an AoI threshold.[51] North Carolina considered the four factors for sources that exceeded both the AoI and PSAT thresholds. Both sulfates and nitrates were considered in the source selection process. To identify sources having the most impact on visibility at Class I areas for PSAT modeling, DAQ used an AoI threshold of greater than or equal to three percent for sulfate and nitrate combined at any North Carolina Class I area for all sources within and outside of the State. Sources which exceeded North Carolina's AoI threshold are listed in Tables 7–20 through 7–24 of the Haze Plan. Of these sources, five sources in North Carolina exceeded the AoI threshold for any Class I area in the State: Blue Ridge Paper Products—Canton Mill (BRPP); Domtar Paper LLC (Domtar); [52] Duke Energy Carolinas LLC (DEC)—Marshall Steam Station (DEC-Marshall); PCS Phosphate Inc.—Aurora (PCS); and SGL Carbon LLC.[53]

North Carolina, in coordination with the other VISTAS states, set a PSAT threshold of greater than or equal to one percent for sulfate or nitrate. Sources identified based on the State's PSAT threshold are listed in Tables 7–36, 7–37, and 7–38 of the 2022 Plan. Of the 19 sources that exceeded the sulfate PSAT threshold, 16 sources are located in 10 other states and three are located in North Carolina. North Carolina selected the three in-state sources

[50] PSAT modeling is a type of photochemical modeling which quantifies individual facility visibility impacts to an area. See footnote 40. DAQ applied its PSAT threshold by facility whereas in the first period, DAQ applied the threshold by emissions unit at selected facilities.

[51] The AoI represents the geographical area around a Class I area in which emissions sources located in the AoI have the potential to contribute to visibility impairment at that Class I area. Emissions data from sources in the AoI is then evaluated to determine which of those sources are most likely contributing to visibility impairment at that Class I area. VISTAS used AoI analysis for all point source facilities in the VISTAS modeling domain to determine the relative visibility impairment impacts at each Class I area associated with sulfate and nitrate. The results of the facility-level AoI analyses were then used to rank and prioritize facilities for further evaluation via PSAT.

[52] On December 1, 2023, DAQ issued Air Quality Permit No. 04291T51 authorizing modifications to the Domtar facility, which is available at: *https://edocs.deq.nc.gov/AirQuality/DocView.aspx?id=457541&dbid=0&repo=AirQuality&searchid=c271acf8-6535-4306-8cfb-9a0caa2b3d97.* Because these authorized permit modifications are subsequent to the North Carolina SIP submission, North Carolina did not consider the modification to determine reasonable progress in the second planning period.

[53] See Table 7–29 on p. 227 of the 2022 Plan.

(BRPP, Domtar, and PCS) for an emissions control analysis.[54] The projected 2028 SO_2 emissions (in tons per year (tpy)) from BRPP, Domtar, and PCS are 483, 1,120, and 3,045, respectively.[55] No sources modeled for PSAT exceeded the PSAT threshold for nitrates. Because no sources exceeded the State's PSAT threshold for nitrates and because ammonium sulfate continues to be the dominant visibility impairing pollutant at the North Carolina Class I areas (as discussed in the following paragraphs), DAQ focused solely on evaluating potential SO_2 controls from BRPP, Domtar, and PCS to address regional haze in potentially affected Class I areas. Section I.A of the TSD provides additional detail regarding the State's source selection process.

The 2022 Plan shows the VISTAS model projections demonstrating that ammonium sulfate is expected to remain the dominant visibility impairing pollutant through 2028, by a factor of four or greater, over ammonium nitrate at Class I areas in North Carolina.[56] In Section 7.4 of the 2022 Plan, DAQ explains the VISTAS analyses relied upon to support the State's focus on SO_2 control evaluations. Additionally, Section 10.4.1 of the Haze Plan provides the State's responses to FLM comments on the exclusion of NO_X control evaluations from the FFAs.

Although ammonium nitrate contributions to light extinction have increased in recent years (2016–2018), sulfate is still the highest contributor to visibility impairment in North Carolina's Class I areas. DAQ provided light extinction data on the 20 percent most impaired and 20 percent clearest days for the North Carolina Class I areas for the 2009–2013 modeling base period and the 2014–2018 current conditions period which show that ammonium sulfate continues to be the dominant visibility impairing pollutant on the 20 percent most impaired visibility days during the 2009–2013 period and 2014–2018 period.[57]

In Section 10.4.1, DAQ reviewed more recent visibility monitoring data for the period 2015–2019 from the IMPROVE monitoring network for Great Smoky Mountains, Linville Gorge, and Shining Rock.[58] Table 3, below, summarizes the percent contribution on the 20 percent most impaired days at Great Smoky Mountains (also Joyce Kilmer), Linville Gorge, and Shining Rock for certain PM species (*i.e.,* ammonium sulfate, ammonium nitrate, and organic carbon) in 2009–2013 versus 2015–2019.[59]

TABLE 3—FIVE-YEAR AVERAGE (2009–2013 vs. 2015–2019) PERCENT (%) PARTICLE CONTRIBUTIONS TO LIGHT EXTINCTION FOR 20% MOST IMPAIRED DAYS AT GREAT SMOKY MOUNTAINS,* LINVILLE GORGE, AND SHINING ROCK[60]

PM species	Great smoky mountains		Linville gorge		Shining rock	
	2009–2013 (%)	2015–2019 (%)	2009–2013 (%)	2015–2019 (%)	2009–2013 (%)	2015–2019 (%)
Ammonium Sulfate	76.3	54.4	77.2	56.9	74.5	58.1
Ammonium Nitrate	5.2	16.6	2.5	8.0	5.5	10.3
Organic Carbon	11.1	17.4	12.5	22.4	12.5	19.4

* Monitoring data for Great Smoky Mountains serves as the IMPROVE data for Joyce Kilmer.

Figures 7–27 (Swanquarter), 7–28 (Shining Rock), 7–29 (Linville Gorge), 7–30 (Joyce Kilmer), and 7–31 (Great Smoky Mountains) in the 2022 Plan show that the majority of 2028 predicted nitrate light extinction on the 20 percent most impaired days at North Carolina's Class I areas is not caused by NO_X emissions from EGU and non-EGU point sources.[61] At Shining Rock, Linville Gorge, Joyce Kilmer, and the Great Smoky Mountains, projected 2028 total sulfate extinction is greater than 17 Mm^{-1} and total projected 2028 total nitrate extinction is less than 3.5 Mm^{-1}. At Swanquarter, the projected 2028 sulfate extinction is 16.6 Mm^{-1} and the projected 2028 nitrate extinction is 4.5 Mm^{-1}. DAQ states that North Carolina sources contribute a small percentage to total nitrate impairment in all cases (ranging from less than one percent of all nitrate visibility impairment at the Great Smoky Mountains to 13 percent at Swanquarter).

DAQ states that it is unclear why ammonium nitrate has started to increase at some but not all VISTAS Class I areas while point and mobile source NO_X emissions have been declining. VISTAS modeling for 2028 suggests that sources outside of North Carolina may be the likely contributor. DAQ indicates that further research is needed to identify the emission sources and geographic locations of those sources contributing to the ammonium nitrate fraction of $PM_{2.5}$ contributing to regional haze. DAQ notes that at some locations, one ton of SO_2 reduction can have anywhere from twice to more than 100 times the impact on visibility impairment as one ton of NO_X reduction.[62]

[54] BRPP and Domtar are pulp and paper mills. PCS is a fertilizer plant with sulfuric acid plants on site.

[55] See Tables 7–48, 7–55, and 7–60 on pp. 271, 275, and 279, respectively, of the 2022 Plan.

[56] See Figures 2–7 through 2–18 and Figure 10–10 of the 2022 Plan. Figures 2–7 through 2–10 provide 2009–2013 speciated PM data for North Carolina's Class I areas showing that ammonium sulfate is the dominant visibility impairing pollutant. Figures 2–11 and 2–12 provide speciated PM data for 2009–2013 for the VISTAS Class I areas and neighboring areas on the 20 percent most impaired days and 20 percent clearest days, respectively. Figures 2–13 to 2–18 show the speciated PM data for North Carolina's Class I areas for the period 2014–2018 showing that ammonium sulfate is the dominant visibility impairing pollutant. Figures 2–17 and 2–18 provide speciated PM data for 2014–2018 for the VISTAS Class I areas and neighboring areas on the 20 percent most impaired days and 20 percent clearest days, respectively.

[57] See Section 2.5.2 (particularly Figures 2–7 through 2–11 for the 2009–2013 period and Figures 2–13 through 2–18 for the 2014–2018 period), and Section 10.4.1 of the 2022 Plan related to ammonium nitrate.

[58] DAQ did not include 2015–2019 IMPROVE monitoring data for Swanquarter in Section 10.4.1 because NPS and USFS did not request that DAQ consider more recent visibility monitoring data for Swanquarter.

[59] The data in Table 1 is derived from Figures 10–1, 10–2, and 10–3 of the 2022 Plan. Swanquarter speciation data is shown in Figures 2–10 through 2–12 and 2–16 through 2–18 of the 2022 Plan.

[60] DAQ provided IMPROVE monitoring data in Figures 10–1, 10–2, and 10–3 regarding Great Smoky Mountains (also for Joyce Kilmer), Linville Gorge, and Shining Rock. For Swanquarter, 2015–2019 IMPROVE data for the 20 percent most impaired days are: 50 percent, 17 percent, and 17 percent for ammonium sulfate, ammonium nitrate, and organic carbon, respectively. See *https://vista.cira.colostate.edu/Improve/rhr-summary-data/.*

[61] Figure 7–26 provides the 2028 visibility impairment from nitrate on the 20 percent most impaired days for all 18 Class I Areas in VISTAS. The figure shows the EGU and non-EGU contributions to total nitrate derived light extinction in 2028.

[62] See pp. 333–335 and Table 10–8 of the 2022 Plan.

In Section 7.7.3.2 of the 2022 Plan, DAQ reviewed North Carolina facilities that were not selected for PSAT modeling and which had an AoI contribution between one and three percent for one or more Class I areas in North Carolina and which were not selected for FFA evaluation. This review included the eight Duke Energy power plants with coal units in North Carolina which, with the exception of DEC-Marshall, did not meet North Carolina's AoI threshold (see Table 7–43 of the 2022 Plan). DAQ reviewed existing SO_2 and NO_X controls for the Duke Energy facilities with coal units and non-EGUs with an AOI contribution between one and three percent sulfate plus nitrate and based on this review, DAQ did not identify any uncontrolled or lightly controlled facilities that were large contributors to anthropogenic light extinction at any of North Carolina's Class I areas that were missed by North Carolina's source selection process.

b. Consideration of the Four Factors: North Carolina considered each of the four CAA factors for BRPP and Domtar and described how the four factors were taken into consideration in selecting the SO_2 measures for inclusion in the State's LTS. For PCS, DAQ considered the four CAA factors for its existing measures for the affected units and determined that there are no technically feasible control measures beyond the existing measures to further reduce SO_2 emissions, and thus, no new measures were evaluated using the four factors. The following subsections summarize the State's evaluation of these facilities. Additional detail is provided in Section I.B. of the TSD.

i. BRPP: During 2017 to 2019, BRPP implemented SO_2 controls on existing processes and replaced two coal-fired boilers with new natural gas-fired boilers to comply with a Special Order by Consent (SOC) between the North Carolina Environmental Management Commission and BRPP.[63] As a result of the SOC, BRPP reduced actual annual SO_2 emissions by 93 percent (5,470 tons per year) from 2017-level emissions.

The FFA focused on the No. 4 Power Boiler, Riley Bark Boiler, and the Riley Coal Boiler because these three boilers comprise 90.2 percent of the BRPP's total 2019 actual emissions and 91.8 percent of the BRRP's total 2028 projected SO_2 emissions.[64] These units are equipped with wet flue gas desulfurization (WFGD).[65] [66] To complete the cost of compliance analysis, BRPP evaluated replacing coal with ultra-low sulfur diesel (ULSD) (all three boilers) and adding dry sorbent injection (DSI) (for the Riley Coal Boiler and No. 4 Power Boiler). Table 7–54 of the 2022 Plan shows that of the new control measures considered, the lowest cost effectiveness was $13,477 per ton of SO_2 removed using a 3.25 percent interest rate and a 30-year equipment life in the cost calculations. The State notes that based on the FFA, BRPP identified no cost-effective control measures to further reduce SO_2 emissions for the three boilers evaluated.

Regarding the other statutory factors, the State identifies the remaining useful life of the source is estimated at more than 25 years, and the equipment life of the control options evaluated is 30 years for both the DSI and ULSD options. The State identifies that the time necessary to comply for both the DSI and ULSD options is at least three years to accommodate time for corporate funding approval, permitting, re-engineering, and planned outage scheduling. Regarding energy and non-air quality environmental impacts of compliance, DAQ explains that adding DSI would increase energy usage as well as PM emissions from materials handling and landfill operations and it would also decrease the useful life of the mill landfill and increase truck traffic on local streets. Regarding ULSD, no significant energy and non-air quality environmental impacts were identified.

Given the 93 percent decrease in SO_2 emissions due to the SOC and the State's determination that there are no cost-effective control SO_2 measures available based on a review of the four factors, DAQ concluded that only existing SO_2 measures are necessary for reasonable progress for the second planning period at BRPP's Riley Coal Boiler, Riley Bark Boiler, and the No. 4 Power Boiler. No source-specific changes were proposed to the North Carolina SIP for BRPP because these existing SO_2 measures are already incorporated into the SIP.[67]

ii. Domtar: The FFA for Domtar focused on Hog Fuel Boiler 2 (''HFB2'') because this unit is projected to emit approximately 90 percent of the facility's total projected SO_2 emissions in 2028 (1,010 tpy out of 1,120 tpy).[68] A hog fuel boiler at a paper mill typically burns wood waste known as ''hog fuel'' to generate electricity for the mill. In addition, Domtar currently routes the majority of its noncondensible waste gases through HFB2. The sulfur compounds from the waste gases accounts for the vast majority of the SO_2 emissions. HFB2 uses low sulfur fuels and inherent bark scrubbing to control SO_2 emissions. To complete the cost of compliance analysis, Domtar evaluated HFB2 for WFGD and DSI.[69] Table 7–58 of the 2022 Plan provides summary cost data showing that the cost effectiveness of the addition of a WFGD would be $3,660/ton and the addition of DSI would cost $22,092/ton of SO_2 removed using a 3.25 percent interest rate, a 30-year equipment life, and assuming a 95 percent SO_2 control efficiency for the scrubber and a 50 percent control efficiency for DSI.[70]

Regarding the other statutory factors, the remaining useful life of HFB2 is 20 years or more, and the equipment life assumed in the cost calculations is 30 years for both the WFGD and DSI control options. The time necessary to

[63] See Section 7.8.1.1 of the 2022 Plan. North Carolina and BRPP entered into the SOC on October 9, 2017, to implement facility process modifications, upgrade existing control equipment, as well as to install new control equipment to comply with the Boiler Maximum Achievable Control Technology (MACT) standard by May 20, 2019, that cumulatively resulted in the control and reduction of facility-wide SO_2 emissions. The SOC is available in Docket ID No. EPA–R04–OAR–2020–0001 on *www.regulations.gov.*

[64] See Table 7–48 on p. 271 of the 2022 Plan.

[65] The SO_2 removal efficiency from the existing control measures at the Riley Coal Boiler, Riley Bark Boiler, and the No. 4 Power Boiler is approximately 90 percent. *See* Section 7.8.1.1 of the 2022 Plan.

[66] WFGD, also referred to as wet scrubbers, are a type of control technology which removes SO_2 and other pollutants from gaseous exhaust streams. WFGD is considered the most efficient way to remove SO_2 from gaseous waste streams if the removal efficiency is optimized.

[67] *See* 85 FR 74884 (November 24, 2020); 40 CFR 52.1770(d). The SIP contains specific SO_2 permit limits and associated operating restrictions; monitoring, recordkeeping, and reporting; and testing compliance parameters from BRPP's title V permit (No. 08961T29) reflecting the requirements of the SOC.

[68] With respect to Domtar's Hog Fuel Boiler 1 (''HFB1''), this unit is projected to emit 12 tpy SO_2 in 2028. HFB1 was not included in the FFA because it is currently equipped to burn only natural gas and biomass with No. 2 fuel oil as a backup fuel. Also, based on updated 2028 emissions projections data, the unit will only contribute two percent of the facility's total SO_2 emissions. In the docket to this proposed rule is a legible copy of the May 12, 2020, letter from Domtar to DAQ provided in Appendix G–2a of the Haze Plan.

[69] In addition to the FFA, DAQ provided, as supplemental information, that the use of a WFGD on HFB2 would improve visibility by 0.03 deciview and improve visual range by approximately 0.16 mile at Swanquarter and that the WFGD would reduce Domtar's contribution to total visibility impairment at Swanquarter by 0.33 percent (0.152 Mm^{-1}). DAQ did not rely upon this supplemental information for the Domtar FFA analysis and conclusions.

[70] In Appendix I of the Haze Plan, DAQ notes that HFB2 is used as a control device for several process gas streams at Domtar. DAQ checked EPA's RACT/BACT/LAER Clearinghouse available at *https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblc-basic-information* and was unable to find documentation of similar emissions units to HFB2 to compare costs of WFGD at this type of unit.

comply for both the WFGD and DSI options is at least three years due to corporate funding approval, permitting, re-engineering, and planned outage scheduling. Regarding energy and non-air quality environmental impacts of compliance, additional electricity would be needed to operate a DSI system, and a DSI system would create additional solid waste. Regarding the WFGD, additional electricity and water would be needed to run the system and additional fan power would be required overcome the additional pressure drop through the WFGD. Other environmental and energy impacts associated with operating a WFGD include generation and disposal of wastewater.

DAQ concluded that there are no cost-effective control SO_2 measures available based on a review of the four factors and that only existing SO_2 measures at HFB2 are necessary for reasonable progress during the second planning period. North Carolina identified permit conditions reflecting these existing measures in Section 7.8.3.1 of the 2022 Plan for incorporation into the North Carolina SIP. In its Commitment Letter, DAQ committed to revise certain permit conditions and submit, no later than one year from the effective date of a final conditional approval action (should EPA finalize the proposed partial conditional approval), a SIP revision requesting incorporation of the revised permit conditions and additional existing specific permit conditions into the SIP. DAQ's commitments are discussed in Section IV.C.3.b.ii of this document.

iii. PCS: The FFA for PCS focused on evaluating Sulfuric Acid Plants (SAPs) 5, 6, and 7 for additional SO_2 controls because these three SAPs accounted for over 97 percent of total facility SO_2 emissions in 2016 and are estimated to account for 94 percent of the total facility SO_2 emissions in 2028. During 2017–2019, PCS implemented upgrades to enhance the SO_2 conversions in the catalytic systems on SAPs 5, 6, and 7 pursuant to a consent decree with EPA entered on February 26, 2015.[71] Table 7–61 of the 2022 Plan summarizes the SO_2 emissions reductions from the upgrades involving a dual absorption process with cesium catalyst.[72] PCS' title V permit includes the SO_2 emissions limits required under the consent decree and prohibits relaxation of these emissions limits after the consent decree has been terminated.

For PCS, the State evaluated whether there are any technically feasible control technologies available for SAPs 5, 6, and 7 at the facility beyond the current SO_2 emissions control technology in place (dual absorption process with cesium catalyst) to further reduce SO_2 emissions at these units and concluded that there are none. Given this conclusion and the SO_2 reductions at PCS due to the upgrades, DAQ concluded that only the existing measures for SAPs 5, 6, and 7 are necessary for reasonable progress during the second planning period. North Carolina identified permit conditions reflecting these existing measures in Section 7.8.3.2 of the 2022 Plan for incorporation into the North Carolina SIP.[73] In its Commitment Letter, DAQ committed to submit, no later than one year from the effective date of a final conditional approval action (should EPA finalize the proposed partial conditional approval), a SIP revision requesting incorporation of additional existing specific permit conditions into the SIP. DAQ's commitments are discussed in Section IV.C.3.b.iii of this document.

c. Documentation of Technical Basis: With respect to emissions information documentation pursuant to 40 CFR 51.308(f)(2)(iii), Section 4 of the 2022 Plan explains the State's use of emissions inventories to develop the plan with additional documentation provided in Appendix B. North Carolina, through VISTAS, developed a 2011 statewide base year emissions inventory which was used to project emissions out to 2028, the end of the second planning period. DAQ also evaluated emissions data from 2017, the year of the most recent triennial emissions data available at the time of the development of the 2022 Plan.[74] DAQ also provided annual, statewide anthropogenic SO_2, NO_X, and $PM_{2.5}$ emissions data from 2011 through 2019 for North Carolina in Tables 13–9, 13–10, and 13–11, respectively, of the 2022 Plan.

With respect to modeling information documentation pursuant to 40 CFR 51.308(f)(2)(iii), Sections 5 and 6 of the 2022 Plan describe the modeling methods used to develop the plan with additional documentation provided in Appendix E and results of the RPG modeling in Section 8 of the plan. Appendix D contains AoI analyses documentation.

With respect to cost and engineering information documentation pursuant to 40 CFR 51.308(f)(2)(iii), Section 7.8 of the 2022 Plan details the State's analysis of proposed FFAs for BRPP and Domtar located in Appendix G which evaluated the four factors, including the cost of compliance factor, and provided detailed cost calculations for potential new control measures assessed as part of the engineering analyses.

With respect to monitoring information documentation pursuant to 40 CFR 51.308(f)(2)(iii), the State assessed baseline (2000–2004), current (2014–2018), and natural visibility conditions for North Carolina's Class I areas in Section 2 of the 2022 Plan with supporting information located in Appendix C.

Section I.D of the TSD provides a more detailed summary of the State's assessment of the documentation of the technical basis for the 2022 Plan under 40 CFR 51.308(f)(2)(iii) and 40 CFR 51.308(f)(6)(v).

d. Assessment of the Five Additional Factors in 40 CFR 51.308(f)(2)(iv): With respect to 40 CFR 51.308(f)(2)(iv), North Carolina considered each of the five additional factors in developing the State's LTS and evaluated their relevancy for the second planning period. With respect to 40 CFR 51.308(f)(2)(iv)(A), North Carolina referenced the State's emissions inventory development for the base year of 2011 as projected out to 2028 for the requirement to assess emission reductions due to ongoing air pollution control programs, including measures to address Reasonably Attributable Visibility Impairment (RAVI). With respect to 40 CFR 51.308(f)(2)(iv)(B), North Carolina summarized the State's existing regulations that mitigate the impacts of construction activities by requiring control of erosion, siltation, and pollution from construction activities and requiring subject facilities to control PM from fugitive dust emission sources generated within plant boundaries.[75] With respect to 40 CFR

[71] The consent decree entered by the Court on February 26, 2015, is located in the docket for this proposed rulemaking. This consent decree terminated on April 3, 2023.

[72] See Appendix G–3 of the 2022 Plan for additional information regarding the dual absorption process with cesium catalyst.

[73] In an email dated March 28, 2024, DAQ clarified that the text of Condition 2.5 A.1.p of PCS' title V permit, proposed for adoption into the SIP on page 289 of the Haze Plan, was inadvertently excluded from the excerpts of permit conditions provided in Section 7.8.3.2 of the Haze Plan under ''*Section 2.5 A.1.k through p—Emissions Monitoring Requirements.*''

[74] 2017 emissions data is included in the following tables and figures in the 2022 Plan: Table 7–41 (SO_2) and 7–42 (NO_X) for certain non-EGU sources in North Carolina; Tables 13–9 (SO_2), 13–10 (NO_X), 13–11 ($PM_{2.5}$), 13–12 (PM_{10}), 13–13 (VOC) for anthropogenic statewide emissions of these pollutants; Table 13–14 (SO_2, NO_X for all RPOs); Figures 13–9 (SO_2), 13–10 (NO_X), 13–11 ($PM_{2.5}$), 13–12 (PM_{10}), 13–13 (VOC)) for anthropogenic statewide emissions of these pollutants; and Figures 13–14 and 13–15 (SO_2, NO_X for all RPOs).

[75] DAQ explained that fine soils were a relatively minor contributor to visibility impairment on the 20

51.308(f)(2)(iv)(C), North Carolina summarized existing and planned source retirements in Section 7.2.2 and Section 8.3.5 of the 2022 Plan. With respect to 40 CFR 51.308(f)(2)(iv)(D), North Carolina considered the State's *Guidelines for Managing Smoke from Forestry Burning Operations* to mitigate $PM_{2.5}$ emissions and regional haze impacts associated with prescribed burning.[76] With respect to 40 CFR 51.308(f)(2)(iv)(E), North Carolina pointed to the development and evaluation of the 2028 RPGs for the North Carolina Class I areas which reflect the net effect on visibility due to projected changes in point, area, and mobile source emissions over the second period. Section I.C of the TSD provides a more detailed summary of the State's assessment of the five additional factors in 40 CFR 51.308(f)(2)(iv).

e. Interstate Consultation: North Carolina consulted with states[77] and RPOs that identified North Carolina sources as impacting those states' (or states within the RPOs') Class I areas, and DAQ consulted with the 10 states with one or more sources exceeding North Carolina's PSAT threshold at one or more of North Carolina's Class I areas.

i. State/RPOs Requesting Consultation with North Carolina:

a. MANE–VU Ask: The following summarizes the conclusions of consultation related to the MANE–VU Ask for North Carolina.[78] Section I.E of the TSD provides a more detailed summary of the State's interstate consultation pursuant to 40 CFR 51.308(f)(2)(ii).

The MANE–VU Ask for states outside of MANE–VU addresses both statewide impacts to visibility and specific emissions units' visibility impacts. States that contributed greater than or equal to two percent of the visibility impairment to a Class I area and had an average mass impact of over one percent (0.01 microgram per cubic meter) on a statewide basis were identified for consultation and included in the Inter-RPO Ask. Additionally, any emissions units having the potential for a 3.0 Mm^{-1} or greater light extinction impact on any MANE–VU Class I area based on CALPUFF modeling of 2011 SO_2 and NO_X emissions were identified for consultation in the MANE–VU Ask.

In a letter dated October 16, 2017, MANE–VU requested consultation with North Carolina on the basis that North Carolina was identified as impacting MANE–VU Class I area(s) on both a statewide basis and emission unit basis. On a statewide basis, MANE–VU claimed that North Carolina's percent mass-weighted sulfate and nitrate contributions from North Carolina to MANE–VU Class I areas in 2015 exceeds the RPO's two percent threshold for five Class I areas in MANE–VU.[79] On an emissions unit basis, the No.1 Power Boiler at North Carolina's Kapstone Kraft Corporation (''Kapstone'') was identified as having the potential to exceed the 3.0 Mm^{-1} or greater visibility impact threshold set by MANE–VU for any Class I area in the MANE–VU region.[80]

Regarding statewide visibility impacts to MANE–VU Class I areas, North Carolina disagreed with MANE–VU that North Carolina's statewide emissions are impacting visibility at any MANE–VU Class I areas. North Carolina's viewpoints are reflected in the January 27, 2018, letter from VISTAS to MANE–VU. To resolve the disagreement, North Carolina sent a response letter on February 16, 2018, to MANE–VU and noted several disagreements with MANE–VU's analysis.

Regarding Kapstone's visibility impacts to MANE–VU Class I areas, in a letter dated February 16, 2018, DAQ clarified the status of the No. 1 Power Boiler at KapStone that was initially identified in a September 5, 2017, document from MANE–VU as having the potential for a maximum 6.0 Mm^{-1} light extinction impact on a MANE–VU Class I area based on CALPUFF modeling of the facility's 2011 SO_2 and NO_X emissions.[81] DAQ reviewed the modeling documentation and found that the maximum potential light extinction impact modeled for the power boiler was 0.28 Mm^{-1} for MANE–VU Class I areas and 0.47 Mm^{-1} for Class I areas near the MANE–VU region shown in Table 1 of the 2018 letter. Based on discussions with MANE–VU representatives, there was agreement that the initial light extinction values shown in Table l of the 2018 letter are correct for the No. 1 Power Boiler and that the boiler should not be included in the MANE–VU Ask.

North Carolina documented the State's responses and viewpoints with respect to the MANE–VU Ask in Section 10 and Appendix F–4 of the 2022 Plan. North Carolina proposes that it fulfilled the consultation requirements under 40 CFR 51.308(f)(2)(ii) by the State's active participation in the MANE–VU consultation process and by the State's documented responses to MANE–VU. Thus, DAQ determined that no further action is required under the RHR to address MANE–VU's requests.

b. Proposed Plan Comments from MANE–VU, New Hampshire, and New Jersey: MANE–VU, New Hampshire, and New Jersey provided written comments on the North Carolina haze plan proposed for public comment at the State level.[82] In total, there are five MANE–VU Inter-RPO Asks for states outside of the MANE–VU Region. Regarding Asks 1, 4, and 5, MANE–VU, New Hampshire, and New Jersey acknowledged in their comments on the North Carolina prehearing plan that the existing measures in North Carolina address these three asks. Regarding Ask 2, MANE–VU determined that this ask does not apply to North Carolina. Regarding Ask 3, DAQ reviewed the MANE–VU, New Hampshire, and New Jersey recommendations for the State to adopt an ultra-low sulfur fuel (ULSF) oil standard consistent with Ask 3 and explained in the 2022 Plan why it would not be reasonable to do so. DAQ evaluated residual and distillate oil use in North Carolina and concluded that adopting an ULSF standard would provide ''very little'' reduction in SO_2 emissions or any noticeable improvement in visibility in Class I areas in North Carolina and in downwind states.

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percent most impaired days at the Class I areas in North Carolina during the baseline period of 2000–2004.

[76] DAQ notes that elemental carbon is the primary visibility impairing pollutant related to wildfires, prescribed wildland fires, and agricultural burning. Elemental carbon is a relatively minor contributor to visibility impairment on the 20 percent most impaired days from the base period (2000–2004) through 2018 at the Class I areas in North Carolina based on IMPROVE monitoring data as discussed in Section 2.4 of the 2022 Plan.

[77] New Hampshire and New Jersey are the only states that requested consultation with North Carolina.

[78] MANE–VU refers to the emission reduction measures identified in other states as being necessary to make reasonable progress as ''Asks.'' The MANE–VU Ask to states outside of the MANE–VU Region is available at: *https://otcair.org/manevu/Upload/Publication/Formal%20Actions/MANE-VU%20Inter-Regional%20Ask%20Final%208-25-2017.pdf.*

[79] See Tables 2 and 3 of Appendix F–4 of the Haze Plan.

[80] The August 25, 2017, MANE–VU document identifying maximum potential visibility impacts from the No. 1 Power Boiler at Kapstone Kraft Corporation in North Carolina is located at: *https://otcair.org/manevu/Upload/Publication/Formal%20Actions/MANE-VU%20Inter-Regional%20Ask%20Final%208-25-2017.pdf.*

[81] The September 5. 2017, MANE–VU document, ''Selection of States for MANE–VU Regional Haze Consultation (2018)'', is available at: *https://otcair.org/manevuUpload/Publication/Reports/MANE-VU%20Contributing%20State%20Analysis%20Final.pdf.*

[82] MANE–VU, New Hampshire, and New Jersey submitted a letter dated October 12, 2021, and New Jersey also submitted a letter dated October 15, 2021, providing comments on North Carolina's proposed haze plan. These letters are included in Appendix I of the 2022 Plan.

ii. North Carolina's Requests for Consultation with Other States: Consultation with other states with sources contributing to regional haze at North Carolina's Class I areas is discussed in Section 10 and Appendix F of the 2022 Plan. As listed in Tables 7–37 and 7–38 of the 2022 Plan, North Carolina requested a FFA of 16 sources in 10 other states because these sources exceeded the State's sulfate PSAT threshold at one or more of North Carolina's Class I areas.[83] DAQ documented the responses from the 10 states in Section 10.1.1 of the 2022 Plan. Section I.E.3 of the TSD provides more details regarding the consultation related to these sources.

3. EPA Evaluation: EPA has reviewed DAQ's source selection criteria, consideration of the four factors, determinations of controls necessary for reasonable progress, submitted permit conditions, documentation of technical basis, interstate consultation, and consideration of the five additional factors. Based on this review, EPA finds that North Carolina's LTS satisfies 40 CFR 51.308(f)(2) but for concerns with the legal and practicable enforceability of certain Domtar and PCS permit conditions identified for incorporation into the SIP. As discussed above, North Carolina has committed to provide EPA with a SIP submission no later than one year from the effective date of a final conditional approval action that would adequately address the legal and practicable enforceability concerns identified in this document. Therefore, EPA is proposing to conditionally approve the sections of the Haze Plan addressing 40 CFR 51.308(f)(2). If North Carolina submits the required SIP revision by the specified deadline and EPA approves the submission, then the identified enforceability concerns will be cured and the conditional approval of the sections of the Haze Plan addressing 40 CFR 51.308(f)(2) will be converted to a full approval. Sections IV.C.3.b.ii and IV.C.3.b.iii of this document discuss the enforceability concerns with the Domtar and PCS permit conditions, respectively, and North Carolina's commitments to resolve these concerns. Although EPA finds that North Carolina's LTS satisfies 40 CFR 51.308(f)(2) but for the enforceability concerns with certain Domtar and PCS permit conditions identified for incorporation into the SIP, EPA is soliciting comment on the adequacy of DAQ's analyses, including the FFAs, determination of controls necessary for reasonable progress, and the adequacy of the submitted permit conditions, including associated monitoring, recordkeeping, and reporting, and whether the State has met the requirements of 40 CFR 51.308(f)(2)(i) through (iv).

a. Source Selection Criteria: EPA finds that North Carolina's source selection was reasonable. The Haze Plan supports this finding, because it contains information such as Appendix C which includes monitoring and meteorological data used to support selection of sources; Appendix D which provides documentation supporting the AoI analyses (first step of the State's source selection process); and Appendix E which details the visibility and source apportionment data used and results from the PSAT modeling (second step of the State's source selection process). However, EPA finds this source selection requirement is not separable from the overarching requirement of 40 CFR 51.308(f)(2) to establish a LTS. As explained previously in this document, EPA is proposing to conditionally approve North Carolina's LTS due to concerns with the legal and practical enforceability of certain permit conditions identified in the Haze Plan for incorporation into the SIP. Accordingly, EPA finds that the Haze Plan will only meet all requirements of 40 CFR 51.308(f)(2) if North Carolina meets its commitment to submit the corrective SIP revision described in its Commitment Letter no later than one year from the effective date of a final conditional approval action, should EPA finalize the proposed partial conditional approval, and EPA approves that SIP revision. North Carolina included a description of the criteria that the State used to determine which sources the State evaluated for emissions controls.

EPA also finds that North Carolina's source selection resulted in a reasonable set of sources contributing to visibility impairment at Class I areas affected by North Carolina's sources. AoI and PSAT are acceptable and well-established methods for selecting sources for a control analysis and they enable the identification of the sources that have the largest impacts on visibility at Class I areas in North Carolina and neighboring states,[84] and the State identified three North Carolina sources for a control evaluation and identified 16 out-of-state sources for which they requested a control evaluation through interstate consultation. Additionally, statewide SO_2 emissions are expected to decrease in the second planning period from 2019 levels of 34,712 tpy SO_2 to projected 2028 levels of 32,644 tpy SO_2 (a six percent reduction) which occurred after a 63 percent decrease in statewide SO_2 emissions from 2011 to 2018 by 74,830 tpy SO_2, and statewide NO_X emissions are expected to decrease in the second planning period from 2019 levels of 223,264 tpy NO_X to projected 2028 levels of 138,986 tpy NO_X (approximately a 38 percent reduction) which occurred after a 37 percent decrease in statewide NO_X emissions from 2011 to 2018 by 137,820 tpy NO_X.[85] Additional emissions reductions from permanent shutdowns which have not been reflected in the 2028 emissions projections and 2028 RPGs are 204 tons of SO_2 and 208 tons of SO_2 based on 2016 actual and projected 2028 SO_2 emissions, respectively, and 248 tons of NO_X and 287 tons of NO_X based on 2016 and projected 2028 NO_X emissions, respectively. Visibility conditions in North Carolina's Class I areas in 2028 are estimated to improve since the 2000–2004 baseline period by 14.1 deciviews (Great Smoky Mountains and Joyce Kilmer), 13.8 deciviews (Linville Gorge), 14.8 deciviews (Shining Rock), and 8.5 deciviews (Swanquarter).[86] Specific to the second planning period, visibility conditions in North Carolina's Class I areas in 2028 are estimated to improve since the 2014–2018 period by 2.2 deciviews (Great Smoky Mountains, Joyce Kilmer, Linville Gorge, Shining Rock), and 1.0 deciview (Swanquarter). These projected second planning period visibility improvements represent approximately[87] 30 percent (Great

[83] The 16 sources are: Entergy Arkansas Inc-Independence Plant in Arkansas; Plant Bowen in Georgia; Gibson and Indiana Michigan Power DBA AEP Rockport in Indiana; Tennessee Valley Authority (TVA)-Shawnee in Kentucky; New Madrid Power Plant-Marston in Missouri; Cardinal Power Plant—Cardinal Operating Company (Cardinal Power Plant); Duke Energy Ohio—Wm. H. Zimmer Station (Duke-Zimmer); and General James M. Gavin Power Plant (Gavin Power Plant) in Ohio; Homer City Gen LP/Center and Genon NE Mgmt Co/Keystone Station in Pennsylvania; Eastman and TVA-Cumberland in Tennessee; Jewell Coke Company LLP in Virginia; and Allegheny—Harrison and Monongahela—Pleasants Power Station in West Virginia. North Carolina requested FFAs of non-VISTAS sources through VISTAS.

[84] The State used the AoI process because it identifies the largest sources with potential visibility impacts to Class I areas and then used sophisticated photochemical source apportionment modeling to identify specific sources for control evaluations. See also 2019 Guidance, pp. 12–13.

[85] North Carolina's statewide emissions of SO_2 and NO_X decreased during the period from 2011 to 2018 from 118,721 tpy SO_2 to 43,891 tpy SO_2 and decreased from 369,496 to 231,676 tpy NO_X. See Tables 13–9 and 13–10 of the Haze Plan.

[86] See Table 8–1 of the Haze Plan.

[87] See visibility data for the 20 percent most impaired days data from Table 8–1 of the Haze Plan. Percentage of progress toward natural conditions = [((2014–2018 IMPROVE data) − (2028 RPG))/((2014–2018 IMPROVE data) − (Natural visibility conditions))] × 100. Example calculation for Great Smoky Mountains: [(17.21 − 15.03)/(17.21 − 10.05)] × 100 = 30.4 percent.

Smoky Mountains and Joyce Kilmer); 32 percent (Linville Gorge), 40 percent (Shining Rock), and 16 percent (Swanquarter) of the additional progress needed to reach natural conditions at each Class I area. Additionally, using the most recently available 20 percent most impaired days IMPROVE data (2018–2022) [88] for the 20 percent most impaired days,[89] in the first four years of the second planning period, North Carolina's Class I areas have already achieved 25 percent (Great Smoky Mountains and Joyce Kilmer),[90] 25 percent (Linville Gorge), 27 percent (Shining Rock), and 21 percent (Swanquarter) of the remaining progress needed to reach natural conditions. Also, North Carolina is not contributing to visibility impairment at any Class I areas above the URP, and the State appropriately focused on controlling point source SO_2 emissions based on data showing ammonium sulfate is the dominant visibility impairing pollutant at the North Carolina Class I areas.

Although North Carolina did not select any Duke Energy sources for analysis, EPA conducted further review of five Duke Energy facilities to evaluate the reasonableness of North Carolina's source selection—DEC—Belews Creek Steam Station (DEC-Belews Creek), DEC—Cliffside Steam Station (DEC-Cliffside), DEC-Marshall, Duke Energy Progress, LLC (DEP)—Mayo Electric Generating Plant (DEP-Mayo), and DEP—Roxboro Steam Electric Plant (DEP-Roxboro). EPA identified these five facilities for further review because, in the VISTAS AoI analysis, DEC-Belews Creek, DEC-Cliffside, and DEC-Marshall ranked in the top 10 facility sulfate impacts at Shining Rock; DEC-Belews Creek and DEC-Cliffside ranked in the top 10 facility sulfate impacts at Linville Gorge; DEP-Roxboro ranked in the top 10 facility sulfate impacts at Swanquarter; DEP-Roxboro ranked in the top 10 facility sulfate impacts at James River Face in Virginia; and DEP-Mayo ranked in the top 20 facility sulfate impacts at James River Face. EPA assessed whether these five Duke Energy facilities are effectively controlled for SO_2 [91] and whether any cost-effective new emissions reduction measures for SO_2 would have likely resulted from a FFA had these sources met the State's source selection criteria.

The 2019 Guidance provides several scenarios in which EPA believes it may be reasonable for a state not to select a particular source for further analysis. Two of these scenarios are applicable to the five Duke facilities—a coal-fired EGU that has add-on flue gas desulfurization (FGD) and meets the applicable alternative SO_2 emission limit of 0.2 pound (lb) per million British Thermal Units (MMBtu) (lb/MMBtu) in the Mercury and Air Toxics Standards (MATS) rule for power plants; [92] and an EGU that, during the first period, installed a FGD system that operates year-round with an effectiveness of at least 90 percent. The 2019 Guidance states that in both cases, it is unlikely that an analysis of control measures for a source already equipped with a scrubber and meeting a 0.20 lb/MMBtu limit or greater than 90 percent efficiency would conclude that even more stringent control of SO_2 is necessary to make reasonable progress. *See* 2019 Guidance at 23.

Each of the five Duke sources are equipped with WFGD and are subject to the alternative SO_2 emissions limit from the MATS rule. EPA evaluated the WFGD SO_2 control efficiencies at each of the coal-fired units at these five sources as follows: DEC-Belews Creek (Units 1, 2); DEC-Cliffside (Units 5 and 6); DEC-Marshall (Units 1–4); DEP-Mayo (Units 1A and 1B); DEP-Roxboro (Units 1, 2, 3A, 3B, 4A, 4B). Data from 2017–2021 indicate that existing WFGD systems at these units at the five Duke facilities routinely achieve 92 to 98 percent SO_2 removal efficiencies with some month-to-month variation in performance.[93] Because these coal units are subject to the MATS alternative SO_2 emission limit of 0.2 lb/MMBtu and are equipped with WFGD that routinely achieve a high SO_2 control effectiveness, it reasonable to assume that a FFA would likely result in the conclusion that no further controls are necessary.

b. Consideration of the Four CAA Factors: EPA finds that North Carolina reasonably evaluated and determined, under the four CAA factors, the emission reduction measures for the selected sources that are necessary to make reasonable progress but for the concerns with the legal and practicable enforceability of certain Domtar and PCS permit conditions identified for incorporation into the SIP for the reasons discussed below.[94]

i. BRPP: Regarding BRPP, EPA finds that DAQ's conclusions that existing SO_2 measures at BRPP's Riley Coal Boiler, Riley Bark Boiler, and the No. 4 Power Boiler are necessary for reasonable progress for the second planning period to be reasonable. The State evaluated available and technically feasible SO_2 controls that were based on, where applicable, estimated values of capital costs, annualized costs, and cost per ton of emission reductions, and were consistent with recommendations in EPA's ''Air Pollution Control Cost Manual'' (Cost Manual).[95] WFGD with approximately a 90 percent control efficiency is an existing SO_2 control for these units, and the recently installed control measures are estimated to reduce the 2028 projected emissions for the facility from approximately 5,875 tons to 485 tons of SO_2.[96] Additionally, EPA finds that DAQ reasonably concluded that the addition of DSI controls at $13,477/ton and $14,752/ton for the Riley Coal Boiler and No. 4 power Boiler, respectively, and the ULSD at over $126,000/ton for all three units, are not necessary to make reasonable progress. The associated

[88] The 2018–2022 IMPROVE data for the 20 percent most impaired days was obtained from *https://vista.cira.colostate.edu/Improve/rhr-summary-data/* under the header ''Means for Impairment Metric:''. The IMPROVE data includes visibility monitoring data for each Class I area. This data was filtered for each Class I area, listed as ''GRSM1'' (Great Smoky Mountains whose data also represents Joyce Kilmer), ''LIGO1'' (Linville Gorge), ''SHRO1'' (Shining Rock), ''SWAN1'' (Swanquarter), respectively, (in column ''A'', titled ''site''). Then data was filtered for the years 2018 through 2022 (using column ''B'' titled ''year''). These data points were then filtered for the 20 percent most impaired days, indicated by ''90'' (in column ''C'' titled ''impairment_Group''). The resulting data points for each North Carolina Class I area within the ''haze_dv'' column ''AK'', corresponding to each of the five years, were averaged to determine the 20 percent most impaired days for the 2018–2022 five-year period. The 2018–2022 IMPROVE data for North Carolina's Class I areas are: 15.4 deciviews (Great Smoky Mountains and Joyce Kilmer), 14.7 deciviews (Linville Gorge), 14.0 deciviews (Shining Rock), and 14.9 deciviews (Swanquarter).

[89] The 2014–2018 IMPROVE data was provided by North Carolina in Table 8–1 of the Haze Plan.

[90] Percentage of progress toward natural conditions = [((2014–2018 IMPROVE data) − (2018–2022 IMPROVE data))/((2014–2018 IMPROVE data) − (Natural visibility conditions))] ×100. Example calculation for Great Smoky Mountains: [(17.21 − 15.4)/(17.21 − 10.05)] × 100 = 25 percent.

[91] EPA did not evaluate NO_X controls for these facilities because EPA proposes to agree with North Carolina's conclusion that ammonium sulfate continues to be the dominant visibility impairing pollutant at North Carolina's Class I areas. See Section IV.C.2.a of this notice.

[92] The MATS rule is located at 40 CFR part 63, subpart UUUUU.

[93] This data is available through EPA's Clean Air Markets Program at: *https://campd.epa.gov/data.* A summary of the WFGD control efficiency data for the years 2017–2022 for DEC-Belews Creek (Units 1, 2); DEC-Cliffside (Units 5 and 6); DEC-Marshall (Units 1–4); DEP-Mayo (Units 1A and 1B); and DEP-Roxboro (Units 1, 2, 3A, 3B, 4A, 4B) is compiled in a spreadsheet which is included in the docket for this proposed rulemaking.

[94] *See also* Section I.B of the TSD for additional details regarding North Carolina's FFAs.

[95] EPA's Cost Manual is available at: *https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution.*

[96] Tables 7–5 and 7–26 of the 2022 Plan display 2028 BRPP SO_2 emissions projections as 405 tpy. Table 7–49 of the 2022 Plan identifies the 2028 BRPP SO_2 emissions projections as 485 tpy.

existing SO_2 emissions limits for these boilers, summarized in Table 7–48 of the 2022 Plan, are already adopted into the North Carolina SIP effective November 24, 2020.[97]

ii. Domtar: Regarding Domtar, EPA finds that DAQ's exclusion of HFB1 from FFA review is reasonable because it is equipped to only burn natural gas and biomass with No. 2 fuel oil as a backup unit and is projected to emit 12 tpy of SO_2 in 2028, which is only one percent of Domtar's total SO_2 emissions. EPA also finds that DAQ's control analysis and conclusions that the existing SO_2 measures at Domtar's HFB2 are necessary for reasonable progress for the second planning period are reasonable, except for EPA's concerns with the legal and practicable enforceability of certain permit conditions identified for incorporation into the SIP from Domtar's title V permit. The State evaluated available and technically feasible SO_2 control measures for HFB2 that were based on, where applicable, estimated values of capital costs, annualized costs, and cost per ton of emission reductions prepared according to EPA's Cost Manual. The cost effectiveness of DSI is $22,092/ton and the cost effectiveness of the WFGD is $3,660/ton using a conservative 3.25 percent interest rate.[98]

North Carolina's LTS contains deficiencies that preclude full approval and, based on the State's commitment to address these concerns, EPA is proposing to conditionally approve the LTS portion of the Haze Plan. As discussed in Section III of this document, each state's regional haze SIP must include a LTS that contains enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress. *See* CAA section 169A(b)(2), 40 CFR 51.308(f)(2). Furthermore, CAA section 110(a)(2)(A) requires SIPs to ''include enforceable conditions and other control measures, means or techniques . . . as may be necessary or appropriate'' to meet the requirements of the Act. As EPA has repeatedly stated, to be enforceable, a CAA requirement must be legally and practically enforceable, and there is a considerable body of applicable EPA rules, EPA guidance, and EPA-approved state practices on the topic of practicably enforceable emission limits.[99] Typically, a primary mechanism for ensuring that a SIP provision is legally and practicably enforceable is for a state to impose sufficient monitoring, recordkeeping, and reporting (MRR) requirements on affected sources.

EPA's rules regarding the preparation, adoption, and submittal of SIPs at 40 CFR part 51 also contain requirements concerning the enforceability of SIP emission limits. For example, SIPs must include enforceable test methods for each emission limit included in the plan. *See* 40 CFR 51.212. SIPs must also provide legally enforceable methods requiring owners or operators of stationary sources to maintain records of and periodically report to the State information regarding the nature and number of emissions from a stationary source and other information as it may be necessary for a state to determine if the source is in compliance with the control strategy. *See* 40 CFR 51.211. Furthermore, the SIP completeness criteria in 40 CFR part 51, appendix V state that complete SIPs contain ''evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels'' and ''compliance/enforcement strategies, including how compliance will be determined in practice.'' *See* 40 CFR 51.103; 40 CFR part 51, appendix V, sections 2.2(g), (h).

North Carolina's SIP revision relies on certain existing emission limits in the title V permit for Domtar to achieve reasonable progress towards the national visibility goal. These emission limits must be legally and practicably enforceable, as required under sections 110(a)(2)(A) and 169A(b)(2) of the Act, and the SIP must satisfy EPA's rules regarding the enforceability of SIP emission limits. Section 7.8.3.1 of the Haze Plan identifies SO_2 emission limits from Conditions 2.1 A.4 and 2.1 A.7 of Domtar title V Air Quality Permit No. 04291T51 for incorporation into the SIP as well as several other provisions in these Conditions, including A.4.c.[100] The conditions listed in *italics* under Section 7.8.3.1 are identified for incorporation into the SIP with the exception of any text marked in strikeout.

Condition 2.1 A.4.a contains an SO_2 emission limit of 2.3 lbs/MMBtu heat input when firing wood or natural gas. This limit also applies when burning waste gases with wood and/or natural gas. However, the SIP revision does not include a methodology to evaluate compliance with the 2.3 lbs/MMBtu emission limit. EPA considers the lack of a compliance methodology as a deficiency because it undermines the enforceability of the emission limit. In its Commitment Letter, North Carolina has committed to address this concern by revising Condition 2.1 A.4 of Permit No. 04291T51 to include a condition containing a procedure to monitor and evaluate compliance with the SO_2 emission limit of 2.3 lbs/MMBtu in Condition 2.1 A.4.a and submitting a SIP revision, no later than one year from the effective date of a final conditional approval action (should EPA finalize the proposed partial conditional approval), requesting incorporation of the condition into the SIP.

Condition 2.1 A.4.c states that monitoring, recordkeeping, and reporting are not required for the combustion of wood residue and natural gas. However, as discussed above, these SIP-approved emission limits must have adequate monitoring, recordkeeping, and periodic reporting requirements in order to be legally and practicably enforceable, and the SIP must satisfy EPA's rules regarding the enforceability of SIP emission limits which require monitoring, recordkeeping, and periodic reporting. To address this concern, North Carolina submitted a letter dated July 30, 2024, withdrawing from the Haze Plan the State's request for EPA to incorporate Condition 2.1 A.4.c into the SIP,[101] and in its Commitment Letter, North Carolina committed to submit a

[97] *See* 85 FR 74884 (November 24, 2020) available at: *https://www.govinfo.gov/content/pkg/FR-2020-11-24/pdf/2020-25464.pdf.*

[98] See *https://fred.stlouisfed.org/series/PRIME* for historical interest rates. As of July 22, 2024, the current bank prime interest rate is 8.5 percent. (See: *https://www.federalreserve.gov/releases/h15/*).

[99] *See, e.g.,* 57 FR 13497, 13567 (April 16, 1992) (explaining principles, including enforceability, to which SIPs and implementing instruments must adhere to help assure that planned emission reductions will be achieved); 80 FR 33840, 33843, 33865, 33890, 33891, 33903 (June 12, 2015) (discussing the requirement that SIP emission limits must be practicably enforceable and stating that ''[t]he term practically enforceable means, in the context of a SIP emission limitation, that the limitation is enforceable as a practical matter (*e.g.,* contains appropriate averaging times, compliance verification procedures and recordkeeping requirements).''

[100] The State requested in the Haze Plan for EPA to incorporate specific permit conditions from Domtar title V Air Quality Permit No. 04291T50. However, this permit was superseded after EPA received the SIP revision. In an email dated March 28, 2024, DAQ asks EPA to instead incorporate the same terms from the current Domtar title V permit (DAQ Air Quality Permit No. 04291T51) and confirms that the text of the permit conditions identified for incorporation into the SIP in Section 7.8.3.1 of the Haze Plan from Permit No. 04291T50 has not changed. The March 28, 2024, email and the current Domtar permit are included in the docket for this proposed rulemaking.

[101] In a July 30, 2024, letter, DAQ withdrew the State's request for EPA to incorporate Condition 2.1 A.4.c from Domtar Paper Company's title V air permit for its Plymouth facility into the North Carolina SIP. This request appeared in Section 7.8.3.l of the Haze Plan narrative on pages 284–285. The July 30, 2024, letter of withdrawal is included in the docket for this proposed rulemaking.

SIP revision, no later than one year from the effective date of a final conditional approval action (should EPA finalize the proposed partial conditional approval), requesting incorporation of Conditions 4 I.B., P, and X into the SIP.[102]

Condition 2.1 A.7.a contains an SO_2 emission limit of 0.80 lb/MMBtu heat input when firing oil and wood/lignin. Condition 2.1 A.7 identifies fuel sampling and analysis as the method to evaluate compliance with the 0.80 lb/MMBtu emission limit; however, the Condition does not identify a method to convert fuel sampling and analysis data into SO_2 emissions values comparable with the emission limit. This emission limit is not practicably enforceable for SIP purposes without inclusion of a corresponding conversion methodology. In its Commitment Letter, North Carolina has committed to address this concern by revising Condition 2.1 A.6 and/or Condition 2.1 A.7 of Permit No. 04291T51 to include a condition containing a procedure to monitor and evaluate compliance with the SO_2 emission limit of 0.80 lb/MMBtu in Condition 2.1 A.7.a and submitting a SIP revision, no later than one year from the effective date of a final conditional approval action (should EPA finalize the proposed partial conditional approval), requesting incorporation of the monitoring condition into the SIP.

Given the concerns identified above, and North Carolina's Commitment Letter containing the aforementioned commitments to address these identified concerns related to Domtar, EPA is proposing to conditionally approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(2), (f)(3), and (i)(2) through(4).

iii. PCS: Regarding PCS, EPA finds that DAQ's control analysis and conclusions that the existing SO_2 measures at PCS' SAPs 5, 6, and 7 are necessary for reasonable progress for the second planning period are reasonable, except for EPA's concerns with the legal and practicable enforceability of certain permit conditions identified for incorporation into the SIP from PCS' title V permit. The State adequately demonstrated that there are no technically feasible SO_2 control measures for sulfuric acid plants beyond dual absorption process with cesium catalyst, the current SO_2 control measure at SAPs 5, 6, and 7.

North Carolina's SIP revision relies on certain existing emission limits in the title V permit for PCS to achieve reasonable progress towards the national visibility goal. However, EPA finds that these emission limits are not legally and practicably enforceable. As discussed above, these emission limits must be legally and practicably enforceable, as required under sections 110(a)(2)(A) and 169A(b)(2) of the Act, and the SIP must satisfy EPA's rules regarding the enforceability of SIP emission limits. Section 7.8.3.2 of the Haze Plan identifies SO_2 emission limits from Condition 2.4 A.1 of PCS title V Air Quality Permit No. 04176T72 for incorporation into the SIP as well as several other provisions in Condition 2.4 A.1, including Conditions A.1.m and A.1.o.[103] [104] The conditions listed in *italics* under Section 7.8.3.2 are identified for incorporation into the SIP with the exception of any text marked in strikeout. A summary of EPA's finding and North Carolina's commitment to address the lack of enforceability of these emission limits is found below.

The monitoring provision in Condition 2.4 A.1.m requires the permittee to monitor SO_2 emissions in accordance with the CEMS Plan (Attachment 2 to the permit). However, the 2022 Plan excludes Attachment 2 and the reference to Attachment 2 from the request to incorporate Condition 2.4 A.1.m into the SIP. Similarly, the first sentence of the monitoring provision in Condition 2.4 A.1.o requires the permittee to use analyzer data to determine 3-hour rolling averages and 365-day rolling averages per Attachment 2, and the second sentence requires the permittee to round calculations associated with these averages using the procedures specified in Attachment 2. However, the 2022 Plan excludes the second sentence and the reference to Attachment 2 in the first sentence from the request to incorporate Condition 2.4 A.1.o into the SIP. EPA considers this exclusion of monitoring requirements from Conditions 2.4 A.1.m and 2.4 A.1.o to be a deficiency because the lack of monitoring requirements undermines the enforceability of the SO_2 emission limits identified for incorporation into the SIP. In its Commitment Letter, North Carolina has committed to address these concerns by submitting, no later than one year from the effective date of a final conditional approval action (should EPA finalize the proposed partial conditional approval), a SIP revision requesting incorporation of Conditions 2.4 A.1.m (with the exception of Condition 2.4 A.1.m.v) and 2.4 A.1.o in its entirety and Attachment 2 of Permit No. 04176T72 into the SIP.

The SIP revision does not identify any reporting requirements from title V permit No. 04176T72 for incorporation into the SIP. As discussed above, these emission limits must have adequate monitoring, recordkeeping, and periodic reporting requirements in order to be legally and practicably enforceable. In its Commitment Letter, North Carolina has committed to address this concern by submitting, no later than one year from the effective date of a final conditional approval action (should EPA finalize the proposed partial conditional approval), a SIP revision requesting incorporation of Conditions 4 I.B., P, and X into the SIP.[105]

Given the concerns identified above and North Carolina's Commitment Letter containing the aforementioned commitments to address these identified concerns related to PCS, EPA is proposing to conditionally approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(2), (f)(3), and (i)(2) through(4).

c. Documentation of Technical Basis: With respect to 40 CFR 51.308(f)(2)(iii), EPA finds that North Carolina adequately documented cost, engineering, emissions, modeling, and monitoring information to determine the measures that are necessary to make reasonable progress. With regard to

[102] North Carolina's SIP contains a recordkeeping provision at 15 NCAC 02D .0605 that requires the owner or operator of a source subject to the requirements of 15 NCAC 02D or 02Q, such as Domtar, to maintain for two years ''(1) records detailing malfunctions pursuant to 15A NCAC 02D .0535; (2) records of testing conducted pursuant to rules in Subchapter 02D; (3) records of monitoring conducted pursuant to Subchapters 02D or 02Q of this Chapter; (4) records detailing activities relating to compliance schedules in this Subchapter [02D]; and (5) for unpermitted sources, records needed to determine compliance with rules in Subchapters 02D or 02Q of this Chapter.'' *See* 15 NCAC 02D .0605(a), (e).

[103] Condition 2.4 A.1 of Air Quality Permit No. 04176T72 includes the SO_2 emissions limits for Sulfuric Acid Plants Nos. 5, 6, and 7 required under a February 26, 2015, consent decree between EPA and PCS that terminated on April 3, 2023. The consent decree and termination order are in the docket for this proposed rulemaking. Although the consent decree is terminated, the emission limits ''shall never be relaxed.'' *See* Condition 2.4 A.1.f.

[104] The statement in the first bullet on p. 288 of the 2022 Plan that reads ''Section 2.5 A.1.b through d, f'' is correct. The paragraph letters ''a'', ''b'', and ''c'' in the italicized text are incorrect and should read ''b'', ''c'', and ''d'', respectively. The State requested in the Haze Plan for EPA to incorporate specific permit conditions from PCS title V Air Quality Permit No. 04176T66 into the SIP. However, this permit was superseded after EPA received the SIP revision. In an email dated July 30, 2024, DAQ asks EPA to incorporate the same terms from the current PCS title V permit (DAQ Air Quality Permit No. 04176T72). The email confirms that the text of the permit conditions identified for incorporation into the SIP in Section 7.8.3.2 of the Haze Plan from Permit No. 04176T66 has not changed with the exception of the renumbering of Section 2.5 to Section 2.4 and the correction of a typographical error to a cross-reference in condition 2.5 A.1.p (currently 2.4 A.1.p) in the PCS permit.

[105] As discussed in Section IV.C.3.b.ii above, North Carolina's SIP contains a recordkeeping provision at 15 NCAC 02D .0605.

emissions information, as required by the RHR, the State included the required years of the most recent triennial emissions inventory (2017) and the most recent annual emissions data (2019) at the time of the development of the 2022 Plan (40 CFR 51.308(f)(2)(iii)). DAQ also provided statewide actual emissions inventory data for 2011, 2014, 2016, 2017, 2018, and 2019 in its 2022 Plan. Additionally, the State provided 2028 emissions data used in the source selection process. With regard to cost and engineering information, the State provided the underlying cost calculations associated with the cost summaries in Section 7.8 of the plan for BRPP and Domtar, and the proposed FFAs in Appendix G provide engineering analyses evaluating potential new control measures.[106] With regard to monitoring data, the State provided IMPROVE data for the modeling base period plus baseline, current (2014–2018), updated current (2015–2019), and natural conditions for all VISTAS Class I areas with more detailed data provided for the North Carolina Class I areas. With regard to modeling information, the State documented the modeling input and outputs and assumptions in the Haze Plan and the results of the modeling related to RPGs and PSAT source impacts at Class I areas.

d. Assessment of the Five Additional Factors in 40 CFR 51.308(f)(2)(iv): EPA finds that North Carolina considered each of the five additional factors in 40 CFR 51.308(f)(2)(iv), discussed the measures the State has in place to address each factor (or discussed why such measures are not needed), and, where relevant, explained how each factor informed DAQ's and VISTAS' technical analyses for the second planning period.

With respect to 40 CFR 51.308(f)(2)(iv)(A), EPA finds that DAQ adequately addressed the requirement to assess emission reductions due to ongoing air pollution control programs, including measures to address RAVI, through the State's emissions inventory work for the base year of 2011 as projected out to 2028.

With respect to 40 CFR 51.308(f)(2)(iv)(B), EPA finds that North Carolina adequately evaluated measures to mitigate the impacts of construction activities by describing various State regulations that address control of erosion, siltation, and pollution from construction activities and that require subject facilities to control PM from fugitive dust emission sources generated within plant boundaries.

With respect to 40 CFR 51.308(f)(2)(iv)(C), EPA finds that North Carolina adequately considered source retirement and replacement schedules by summarizing existing and planned source retirements throughout the 2022 Plan, including in Section 7.2.2 (retirements accounted for in the 2028 inventory/RPGs) and Section 8.3.5 (retirements not accounted for in the 2028 inventory/RPGs). Additionally, retirement schedules for various Duke Energy power plant facilities are included in Table 7–43 of the 2022 Plan.

With respect to 40 CFR 51.308(f)(2)(iv)(D), EPA finds that North Carolina adequately addressed the requirement to consider the State's basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs for the following reasons. The State describes its *Guidelines for Managing Smoke from Forestry Burning Operations* to mitigate $PM_{2.5}$ emissions and regional haze impacts associated with prescribed burning and highlights interagency coordination related to educating North Carolina citizens on open burning and related topics.[107]

With respect to 40 CFR 51.308(f)(2)(iv)(E), EPA finds that North Carolina assessed the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the second period in development of the 2028 RPGs for the North Carolina Class I areas. DAQ used the 2011 base year emissions inventory to project emissions from various source sectors to 2028, the end of the second planning period. DAQ, through VISTAS, completed CAMx modeling to estimate visibility impairment in 2028 based on projected 2028 emissions from the 2011 base year inventory and using IMPROVE monitoring data for 2009–2013.[108] For North Carolina, estimated visibility improvements by 2028 in each Class I area are based on: estimated emissions reductions associated with existing federal and state measures implemented or expected to be implemented during the second planning period; emissions reductions associated with facility closures that occurred after the 2016 point source emissions base year (*i.e.,* January 1, 2017 through November 18, 2018); and estimates of emissions changes associated with economic growth and other factors.

e. Interstate Consultation: With respect to interstate consultation pursuant to 40 CFR 51.308(f)(2)(ii), EPA finds that North Carolina adequately consulted with those states with Class I areas where North Carolina emissions may reasonably be anticipated to cause or contribute to visibility impairment and to consult with those states whose sources may reasonably be anticipated to cause or contribute to visibility impairment at North Carolina's Class I areas. No states requested that North Carolina perform a FFA of any of the State's sources. With respect to the MANE–VU Ask, North Carolina adequately took action to resolve disagreements with MANE–VU related to North Carolina's statewide impacts and satisfactorily documented the State's disagreements by sending the February 16, 2018, letter to MANE–VU documenting the State's points of disagreement in addition to supporting the January 27, 2018, letter from VISTAS to MANE–VU.[109] With respect to consultation with other states with visibility impacts to North Carolina's Class I areas, DAQ adequately documented the responses from consulted states in Appendix F and as summarized in Section 10.1.1 and identified whether the State agrees with the conclusions.

f. Conclusions: For the reasons discussed above, EPA finds that North Carolina's LTS satisfies 40 CFR 51.308(f)(2) but for the concerns with the legal and practicable enforceability of certain Domtar and PCS permit conditions identified for incorporation into the SIP. Given this finding and North Carolina's commitment to submit a SIP revision resolving these concerns, EPA is proposing to conditionally approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(2), (f)(3), and (i)(2) through(4).

[106] The State documented that there are no additional technical feasible control technologies for SO_2 at PCS.

[107] DAQ notes that elemental carbon is the primary visibility impairing pollutant related to wildfires, prescribed wildland fires, and agricultural burning. Elemental carbon is a relatively minor contributor to visibility impairment on the 20 percent most impaired days from the base period (2000–2004) through 2018 at the Class I areas in VISTAS and Class I areas neighboring VISTAS based on IMPROVE monitoring data as discussed in Section 2.4 of the 2022 Plan. See Figures 2–17 and 2–18 of the 2022 Plan.

[108] In preparing the 2028 emissions for point sources, North Carolina started with a 2016 base year inventory which include emission reductions associated with federal and state control programs and consent decrees included in the LTS for the first planning period.

[109] Appendix F–4 of the 2022 Plan contains the January 27, 2018, and February 16, 2018, letters along with a letter dated October 16, 2017, in which MANE–VU requested consultation with North Carolina because North Carolina exceeds the MANE–VU visibility impact threshold for at least one Class I area in the MANE–VU region.

D. RPGs

1. RHR Requirement: 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 clearest days and the most impaired days—reflecting the visibility conditions that will be achieved at the end of the planning period as a result of the emission limitations, compliance schedules, and other measures required under paragraph (f)(2) to be in states' LTSs, as well as the implementation of other CAA requirements. The LTSs, 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 LTS. 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.

2. State Assessment: North Carolina identified 2028 RPGs for each of its Class I areas in deciviews for the 20 percent clearest days and the 20 percent most impaired in Tables 8–1 and 8–2, respectively, of the 2022 Plan, which are all well below the 2028 URP value for each Class I area by approximately 13 to 23 deciviews (see Table 1) based on VISTAS' modeling. Table 4 summarizes the 2028 RPGs and 2028 URP for North Carolina's Class I areas.

TABLE 4—NORTH CAROLINA'S CLASS I AREA 2028 RPGS AND URP IN DECIVIEWS (dv)

Class I area	2028 RPG for 20% clearest days	2028 RPG for 20% most impaired days	2028 Uniform rate of progress (URP)
Great Smoky Mountains	8.96	15.03	21.49
Joyce Kilmer	8.96	15.03	21.49
Linville Gorge	8.21	14.25	20.71
Shining Rock	4.54	13.31	20.98
Swanquarter	10.77	15.27	18.28

Figures 3–1 through 3–4 of the 2022 Plan show the URP for the 20 percent most impaired days for Great Smoky Mountains and Joyce Kilmer, Linville Gorge, Shining Rock, and Swanquarter.

3. EPA Evaluation: As discussed previously in this document, EPA is proposing to conditionally approve the sections of the Haze Plan addressing the regional haze requirements contained in 40 CFR 51.308(f)(2) due to concerns with the legal and practicable enforceability of certain permit conditions for Domtar and PCS identified for incorporation into the SIP. 40 CFR 51.308(f)(3)(i) specifies that RPGs must reflect ''enforceable emissions limitations, compliance schedules, and other measures required under paragraph (f)(2) of this section.'' Because the RPGs must reflect enforceable limits, compliance schedules, and other measures in the LTS and because the enforceability issues discussed in Sections IV.C.3.b.ii and IV.C.3.b.iii render certain emission limits in the LTS for Domtar and PCS unenforceable, EPA finds that North Carolina has satisfied the applicable requirements of 40 CFR 51.308(f)(3) related to RPGs but for these practicable enforceability concerns and proposes to conditionally approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(3). North Carolina established 2028 RPGs expressed in deciviews that reflect the visibility conditions that are projected to be achieved by the end of the second planning period as a result of implementation of the LTS and other CAA requirements; North Carolina's RPGs also provide for an improvement in visibility for the 20 percent most impaired days since the baseline period (2000–2004) and demonstrate that there is no degradation in visibility for the 20 percent clearest days since the baseline period; and any additional unanticipated emissions reductions provide further assurances that the State's Class I areas will achieve their 2028 RPGs. However, because the EPA is proposing to conditionally approve North Carolina's LTS under 40 CFR 51.308(f)(2) through this proposed rulemaking, EPA is also proposing to conditionally approve the RPGs under 40 CFR 51.308(f)(3). Therefore, if North Carolina submits the required corrective SIP revision by the specified deadline in its commitment letter and EPA approves the submission, the identified practicable enforceability concerns will be cured and the conditional approval of the elements of the Haze Plan related to the requirements of 40 CFR 51.308(f)(3) will be converted to a full approval.

E. Monitoring Strategy and Other Implementation Plan Requirements

1. RHR Requirement: 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 subsection 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 RPGs 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. Section 51.308(f)(6)(iii) applies only to states

that do not have a mandatory 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. 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. 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. Under 40 CFR 51.308(f)(4), if 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 planning period an appropriate strategy for evaluating such impairment.

2. State Assessment: With respect to 40 CFR 51.308(f)(6)(i), North Carolina states that the existing IMPROVE monitors for the State's Class I areas are adequate. With respect to 40 CFR 51.308(f)(6)(ii), data from these IMPROVE monitors will be used for future haze plans and progress reports. 40 CFR 51.308(f)(6)(iii) does not apply to North Carolina because it has Class I areas. With respect to 40 CFR 51.308(f)(6)(iv), NPS manages and oversees the IMPROVE monitoring network and reviews, verifies, and validates IMPROVE data before its submission to EPA's Air Quality System (AQS). With respect to 40 CFR 51.308(f)(6)(v), DAQ provided a statewide baseline emissions inventory of visibility impairing pollutants for the year 2011 in Table 4–2 of the 2022 Plan; provided 2011, 2014, and 2016–2019 [110] anthropogenic emissions data for SO_2, NO_X, $PM_{2.5}$, PM_{10}, and VOC in Tables 13–9, 13–10, 13–11, 13–12, 13–13, respectively; provided EPA and VISTAS 2028 future emissions projections for SO_2 and NO_X in Table 4–3, and for specific point sources, 2028 VISTAS emission projections for SO_2 and NO_X in Tables 7–20 through 7–24; and committed to update the inventory periodically. With respect to 40 CFR 51.308(f)(6)(vi), North Carolina affirms there are no elements, including reporting, recordkeeping, or other measures, necessary to address and report on visibility for North Carolina's Class I areas or Class I areas outside the State that are affected by sources in North Carolina. With respect to 40 CFR 51.308(f)(4), the State did not include a strategy for evaluating RAVI for any Class I areas because no Federal agency requested additional monitoring to assess RAVI. Section II of the TSD provides a more detailed summary of the State's assessment of its monitoring strategy for regional haze and other plan requirements pursuant to 40 CFR 51.308(f)(6).

3. EPA Evaluation: EPA finds that North Carolina has satisfied the applicable requirements of 40 CFR 51.308(f)(4) and (f)(6) related to RAVI, visibility monitoring, and emissions inventories. With respect to 40 CFR 51.308(f)(4), EPA proposes to find that this requirement does not apply to North Carolina at this time because neither EPA nor the FLMs requested additional monitoring to assess RAVI.

EPA finds that North Carolina satisfied 40 CFR 51.308(f)(6), which is generally met by the State's continued participation in the IMPROVE monitoring network and the VISTAS RPO, for the following reasons. With respect to 40 CFR 51.308(f)(6)(i), North Carolina stated that the existing IMPROVE monitors relied upon for the State's five Class I areas are adequate, and thus, additional monitoring sites or equipment are not needed to assess whether RPGs for all Class I areas within the State are being achieved. With respect to 40 CFR 51.308(f)(6)(ii), North Carolina has procedures by which monitoring data and other information are used to determine the contribution of emissions from within the State to regional haze at Class I areas both within and outside the State through North Carolina's continued participation in VISTAS' regional haze work. With respect to 40 CFR 51.308(f)(6)(iii), this provision is applicable for states with no Class I areas and does not apply to North Carolina. Regarding the reporting of visibility monitoring data to EPA at least annually for each Class I area in the State pursuant to 40 CFR 51.308(f)(6)(iv), EPA finds that North Carolina's participation in the IMPROVE Steering Committee and the IMPROVE monitoring network addresses this requirement. With respect to 40 CFR 51.308(f)(6)(v), EPA finds that North Carolina's continued participation in VISTAS' efforts for projecting future emissions and continued compliance with the requirements of the AERR to periodically update emissions inventories satisfies the requirement to provide for an emissions inventory for the most recent year for which data are available. In addition, EPA finds that North Carolina adequately documented that no further elements are necessary at this time for the State to assess and report on visibility pursuant to 40 CFR 51.308(f)(6)(vi). Therefore, EPA is proposing to approve the portions of the North Carolina SIP submission related to 40 CFR 51.308(f)(6).

F. Requirements for Periodic Reports Describing Progress Toward the RPGs

1. RHR Requirement: Section 51.308(f)(5) requires that periodic comprehensive revisions of states' regional haze plans address the progress report requirements of 40 CFR 51.308(g)(1) through (5). The purpose of these requirements is to evaluate progress toward 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. Sections 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 planning 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 planning 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 planning 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 anthropogenic emissions within or outside the state have occurred since the period addressed by the first planning period progress report, including whether such changes were anticipated and whether they have limited or impeded expected progress toward reducing emissions and improving visibility.

[110] As discussed above, at the time of development of the 2022 Plan, the 2017 NEI was the most recent triennial emissions inventory and 2019 emissions data were the most recent annual emissions data available at the time of the development of the 2022 Plan.

2. State Assessment: With respect to the progress report elements pursuant to 40 CFR 51.308(f)(5), DAQ addressed these elements in Section 13 of the 2022 Plan for the period 2011 to 2018, the end of the first period.

Regarding 40 CFR 51.308(g)(1) and (g)(2), DAQ describes the status of the implementation of the measures of the LTS from the first planning period in Section 13.2 of the 2022 Plan and provides a summary of the emission reductions achieved by implementing those measures in Section 13.3 of the 2022 Plan. With respect to 40 CFR 51.308(g)(1), Table 13–1 of the 2022 Plan identifies key emissions control measures and other emission reduction actions included in the LTS of North Carolina's first regional haze plan submitted on December 17, 2007 (''2007 Haze Plan''). Table 13–1 also identifies key measures that contributed to emission reductions during the first planning period but were not a part of the LTS for the first period (*e.g.,* 2010 SO_2 NAAQS).

With respect to 40 CFR 51.308(g)(2), North Carolina continued to focus on SO_2 emissions reductions because the State determined that ammonium sulfate was the most important contributor to visibility impairment and fine particle mass on the 20 percent best and 20 percent worst days in the first planning period.[111] In Section 13.3 of the 2022 Plan, DAQ summarized EGU and certain non-EGU SO_2 emissions reductions over the 2013–2018 period. The Duke Energy Progress and Duke Progress Carolinas EGU facilities collectively emitted a total of 73,456 tons of SO_2 emissions in 2011 which decreased to 15,130 tons in 2018, a reduction of approximately 79 percent and the EGU sector represents over 50 percent of statewide SO_2 emissions from stationary sources in North Carolina. Regarding EGU NO_X emissions reductions, Duke Energy Progress and Duke Progress Carolinas EGU facilities together emitted a total of 39,285 tons of NO_X emissions in 2011 which decreased to 27,305 tons in 2018, a reduction of 30 percent. Additionally, DAQ focused on five non-EGU facilities identified in the 2007 Haze Plan for a FFA and for which no new measures were found reasonable in that plan: BRPP; Domtar; International Paper—New Bern Mill; PCS; and Coastal Carolina Clean Power—Kenansville. Except for Domtar, whose SO_2 emissions increased by 161 tpy from 2011 to 2018, SO_2 emissions decreased due to new control measures or because the facility closed (*i.e.,* Coastal Carolina Clean Power—Kenansville closed in 2017). DAQ states that there has been a 58 percent reduction in SO_2 emissions associated with these five facilities. The data summarized below regarding 40 CFR 51.308(g)(4) also reflects emissions reductions for the 2013–2018 period.

Regarding 40 CFR 51.308(g)(3), DAQ calculated the following for the State's five Class I areas in Tables 13–6, 13–7, and 13–8: the current visibility conditions (2014–2018); the difference between current visibility conditions compared to the baseline; and the change in visibility impairment for the most and least impaired days over the past five years. DAQ concluded that IMPROVE monitoring data for 2014–2018 show that all North Carolina Class I areas are well below the 2018 RPG for the 20 percent worst days and there is no degradation on the 20 percent best/clearest days which is illustrated in Figures 13–1 through 13–8 of the 2022 Plan.[112]

Regarding 40 CFR 51.308(g)(4), in Section 13.5, DAQ provided emissions trends from 2011 through 2019 for SO_2, NO_X, $PM_{2.5}$, PM_{10}, and VOCs which reflect the emissions reductions from the measures in the first planning period LTS. In summary, from 2011 to 2019, statewide emissions of SO_2, NO_X, $PM_{2.5}$, PM_{10}, and VOCs have reduced by 71, 40, 20, 4, and 13 percent, respectively. Regarding SO_2, statewide SO_2 emissions decreased (in tpy) from 118,721 in 2011 to 34,712 in 2019. Regarding NO_X, statewide NO_X emissions decreased (in tpy) from 369,496 in 2011 to 223,264 in 2019.

Regarding 40 CFR 51.308(g)(5), in Section 13.6, DAQ reviewed anthropogenic SO_2 and NO_X emissions trends based on emissions included in the 2011, 2014, and 2017 NEIs for the VISTAS states and all of the RPOs. The data show a decline in SO_2 and NO_X emissions from 2011 through 2017 in all regions of the country as shown in Table 13–14 and Figures 13–14 and 13–15 of the 2022 Plan. DAQ concluded that there does not appear to be any anthropogenic emissions within North Carolina that would have limited or impeded progress in reducing pollutant emissions or improving visibility.

Section III of the TSD provides a more detailed summary of the State's assessment of how North Carolina addressed requirements for periodic reports describing progress toward the RPGs for the State's Class I areas pursuant to 40 CFR 51.308(f)(5).

3. EPA Evaluation: EPA finds that North Carolina has met the requirements of 40 CFR 51.308(g)(1)–(5) because the 2022 Plan adequately describes the status of the measures included in the LTS from the first planning period and the emission reductions achieved from those measures; the visibility conditions and changes at the North Carolina Class I areas; an analysis tracking the changes in emissions since the first planning period progress report using available emissions data from 2011–2019, including annual 2018 and 2019 emissions data and 2017 NEI data which is the most recent triennial emissions inventory submission from North Carolina prior to submission of the 2022 Plan in accordance with the RHR; and assessed whether any significant changes in anthropogenic emissions within or outside the State have occurred since 2010 (the end of the period addressed by North Carolina's first planning period progress report), including whether these changes in anthropogenic emissions were anticipated in that most recent plan and whether they have limited or impeded progress in reducing pollutant emissions and improving visibility. Thus, EPA is proposing to approve the progress report elements pursuant to 40 CFR 51.308(f)(5).

G. Requirements for State and FLM Coordination

1. RHR Requirement: Section 169A(d) of the CAA 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, the FLM consultation provision of 40 CFR 51.308(i)(2) requires a state to provide the 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 LTS. 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 60 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 the FLMs must be provided an opportunity to discuss with states: assessment of

[111] For the first planning period, visibility conditions were determined for the average of the 20 percent most impaired visibility days (referred to as the ''worst'' days) and the 20 percent least impaired visibility days (referred to as the ''best'' days).

[112] In Figures 13–1 through 13–8 of the 2022 Plan, the ''Model Projection'' represents the RPGs and ''Observation'' represents IMPROVE data.

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. Section 40 CFR 51.308(i)(4) requires that the regional haze SIP revision provide procedures for continuing consultation between the state and FLMs regarding the state's visibility protection program.

2. State Assessment: As required by CAA section 169A(d), North Carolina consulted with the FLMs prior to opening the State public comment period on its proposed haze plan and included a summary of the conclusions and recommendations of the FLMs in the proposed plan dated August 30, 2021, in Section 10.4 and Appendix H of the 2022 Plan. North Carolina consulted with the FLMs on April 5, 2021, which was 147 days before the opening of the public comment period on August 30, 2021.

With respect to 40 CFR 51.308(i)(2), DAQ offered to the three FLM agencies the opportunity to consult on the April 5, 2021, draft North Carolina Haze Plan. DAQ shared with the FLMs the August 30, 2021, proposed North Carolina Haze Plan issued for state public notice and comment with a public hearing held October 6, 2021, with the close of the comment period on October 15, 2021. A summary of this consultation process is discussed and documented in Section 10.4 of the 2022 Plan (responses to FLM comments) with supporting information in Appendix H (FLM comments received) and Appendix F. Appendix F–3 contains VISTAS stakeholder materials which include data and analyses for North Carolina that were presented to the FLMs (and EPA). In addition, through VISTAS, North Carolina participated in a series of conference calls where the FLMs and EPA were given the opportunity review and provide feedback regarding technical analyses developed by VISTAS. DAQ also participated in calls hosted by VISTAS with other RPOs, FLMs, and EPA to discuss VISTAS' approaches to source selection and other related topics. See Appendix F of the 2022 Plan.

To address 40 CFR 51.308(i)(3), North Carolina provided responses to comments received from NPS and USFS in Section 10.4 and Appendix I (Section 3.2) of the 2022 Plan.[113]

With respect to 40 CFR 51.308(i)(4), North Carolina updated its existing procedures for continuing consultation with the FLMs, including annual discussions with a review of the most recent IMPROVE monitoring data. Also, DAQ stated that its New Source Review (NSR) regulations for both nonattainment and attainment areas will address emissions from new sources that may be located near a Class I area or increased emissions from major modifications to existing sources. DAQ noted that consultation with the FLMs is also required for sources that are subject to its NSR regulations.

3. EPA Evaluation: EPA is proposing to conditionally approve the Haze Plan with respect to the FLM consultation requirements under 40 CFR 51.308(i)(2)–(4) because EPA is proposing to conditionally approve the LTS under 40 CFR 51.308(f)(2) and the RPGs under 40 CFR 51.308(f)(3). Although North Carolina consulted with the FLMs prior to the public hearing on the 2022 Plan and included a summary of the conclusions and recommendations of the FLMs in the proposed plan issued for public review, provided the FLMs the requisite opportunity to review and provide feedback on the State's initial draft plan pursuant to 40 CFR 51.308(i)(2), included the FLM comments in the proposed Haze Plan pursuant to CAA 169(A)(d), included responses to the FLM comments in the Haze Plan pursuant to 40 CFR 51.308(i)(3), and included ongoing FLM consultation procedures in the Haze Plan pursuant to 40 CFR 51.308(i)(4), North Carolina's consultation was based on a SIP revision that did not meet the required statutory and regulatory requirements of the CAA and the RHR, respectively. If EPA finalizes the partial conditional approval of the Plan, as proposed in this document, the State will be required to again satisfy the FLM consultation requirement under 40 CFR 51.308(i) in the process of submitting to EPA the corrective SIP revision identified in its Commitment Letter.

H. Environmental Justice (EJ) Considerations

As explained in *EPA Legal Tools to Advance Environmental Justice* and the 2021 Clarifications Memo, CAA section 169A and the RHR provide states with the discretion to consider EJ in developing rules and measures related to regional haze.[114] In this instance, DAQ exercised this discretion, as is described below in summary. In reviewing DAQ's analysis, EPA defers to North Carolina's reasonable exercise of its discretion in considering EJ in this way. The information associated with DAQ's analysis is included in this document for informational purposes only; it does not form any part of the basis of EPA's proposed action.

DAQ describes North Carolina's EJ Program for regional haze in Section 10.6 of the 2022 Plan which includes outreach plans to provide an opportunity for meaningful involvement of all people regardless of race, color, national origin, or income during the comment period of this regional haze plan for North Carolina. DAQ ran EJScreen,[115] an EJ mapping and screening tool that provided a nationally consistent dataset and approach for combining various environmental and demographic indicators, around the North Carolina Class I areas except for Great Smoky Mountains because the area is too large to perform the EJScreen analysis. Based on the EJScreen results, which are included in Appendix F–5 of the Haze Plan, DAQ implemented its outreach plan, including conducting specific outreach during the comment period on the August 30, 2021, proposed haze plan to communities within potentially underserved block groups that overlap or are within one mile of the North Carolina Class I areas. DAQ also provided project information and updates to the Eastern Band of the Cherokee Nation. Section IV of the TSD provides a more detailed summary of how North Carolina opted to consider EJ in development of the 2022 Plan. While EPA commends North Carolina's consideration of EJ when developing its SIP revision, the EJ analyses submitted by DAQ were considered but were not the basis for EPA's proposed action.

V. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed above in this preamble, EPA is proposing to incorporate by reference into North Carolina's SIP the following conditions from DAQ Air Quality Permit No. 04291T51 issued to Domtar with an effective date of December 1, 2023: Conditions 2.1 A.4.a (except for the references to HFB1 and the list of systems and sources in A.4.a.i through

[113] FWS did not provide written comments to DAQ on North Carolina's draft and proposed haze plans.

[114] *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.

[115] EPA's EJScreen tool is available at: *https://www.epa.gov/ejscreen.*

A.4.a.v);[116] A.6.e (except for the references to HFB1 and the second sentence);[117] A.6.k (except for the references to HFB1);[118] A.6.l; A.6.m (except the word ''above'');[119] A.7.a (except for the text unrelated to the SO_2 limit for HFB2);[120] A.7.d (except for the references to particulate matter and the word ''above'');[121] A.7.f (except for the phrase ''amounts of each fuel fired in the No. 1 Hog Fuel Boiler each month and the'');[122] and A.7.g (except the word ''above'').[123] EPA is also proposing the incorporation by reference into North Carolina's SIP the following conditions from DAQ Air Quality Permit No. 04176T72 issued by DAQ to PCS with an effective date of May 7, 2024: Conditions 2.4 A.1.b (except for the phrase ''By no later than the compliance deadline specified in Section 2.4 A.1.g, below,'');[124] A.1.c (except for the phrase ''By no later than the compliance deadline specified in Section 2.4 A.1.g, below,'');[125] A.1.d (except for the phrase ''By no later than the compliance deadline specified in Section 2.4 A.1.g, below,'' and the last four sentences of A.1.d.ii);[126] A.1.f; A.1.h; A.1.i; A.1.k (except for the phrase ''After the compliance dates listed in Section 2.1.1 A.6.g, above,'');[127] A.1.l (except for the phrase ''Beginning with the initial RATA as required by Section 2.1.1 A.6.k, above, and thereafter'');[128] A.1.m (except for the phrase ''By no later than the compliance deadlines listed in Section 2.4 A.1.g, above,'' the phrase ''(see Attachment 2 of this permit),'' and Condition A.1.m.v);[129] A.1.n; A.1.o (except for the phrase ''per Attachment 2 of this permit,'' and the second sentence);[130] A.1.p; and A.1.q. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Proposed Action

For the reasons stated herein, EPA is proposing to approve in part and conditionally approve in part North Carolina's April 4, 2022, SIP submission as supplemented with a commitment letter on July 30, 2024. EPA is proposing to approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(1), (f)(4) through(6), and (g)(1)

[116] The text incorporated into the SIP would state ''Emissions of sulfur dioxide when firing wood or natural gas in the No. 2 Hog Fuel Boiler (ID No. ES–65–25–0310) shall not exceed 2.3 pounds per million Btu heat input. Sulfur dioxide formed by the combustion of sulfur in fuels, wastes, ores, and other substances shall be included when determining compliance with this standard, and shall include the sulfur dioxide formed by the combustion of sulfur-containing gases.'' *See* Section 7.8.3.1 of the 2022 Plan.

[117] The text incorporated into the SIP would state ''The Permittee shall demonstrate compliance with the sulfur dioxide emission limit for the No. 2 Hog Fuel Boiler (ID No. ES–65–25–0310) by fuel sampling and analysis. [40 CFR 60.45(b)(2)]'' *See* Section 7.8.3.1 of the 2022 Plan.

[118] The text incorporated into the SIP would state ''Pursuant to 40 CFR 60.7(b), the Permittee shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of the No. 2 Hog Fuel Boiler (ID No. ES 65–25–0310) and any malfunctions of the air pollution control equipment, or any periods during which a continuous monitoring system or monitoring device is inoperative [40 CFR 60.7(b)]. The Permittee shall be deemed in noncompliance with 15A NCAC 02D .0524 if the startup, shutdown, or malfunction records and records of air pollution control equipment malfunctions are not maintained as specified.'' *See* Section 7.8.3.1 of the 2022 Plan.

[119] The text incorporated into the SIP would state ''The Permittee shall record and maintain records of the amount and type of each fuel burned during each day and keep fuel receipts from the supplier that certify potential sulfur dioxide content of fuel oil fired in the hog fuel boilers as specified in Section 2.1 A.6.e. The Permittee shall be deemed in noncompliance with 15A NCAC 02D .0524 if the fuel records are not maintained as specified.'' *See* Section 7.8.3.1 of the 2022 Plan.

[120] The text incorporated into the SIP would state ''The following Best Available Control Technology (BACT) shall not be exceeded:'' and include the row entry for HFB2 containing the 0.80 lb/MMBtu emission limit. *See* Section 7.8.3.1 of the 2022 Plan.

[121] The text incorporated into the SIP would state ''The Permittee shall follow the monitoring and recordkeeping requirements for sulfur dioxide in Section 2.1 A.6.e and A.6.i through A.6.m. The Permittee shall be deemed in noncompliance with 15A NCAC 02D .0530 if the monitoring required for sulfur dioxide emissions from the No. 2 Hog Fuel Boiler is not maintained as required.'' *See* Section 7.8.3.1 of the 2022 Plan.

[122] The text incorporated into the SIP would state ''The Permittee shall record and maintain records of the amounts of each fuel fired in the No. 2 Hog Fuel Boiler each month and make these records available to an authorized representative of DAQ upon request. The Permittee shall be deemed in noncompliance with 15A NCAC 02D .0530 if the amounts of fuels fired each month are not recorded.'' *See* Section 7.8.3.1 of the 2022 Plan.

[123] The text incorporated into the SIP would state ''The Permittee shall submit a semiannual summary report, acceptable to the Regional Air Quality Supervisor, of monitoring and recordkeeping activities given in Section 2.1 A.7.d through A.7.f, postmarked on or before January 30 of each calendar year for the preceding six-month periods between July and December, and July 30 of each calendar year for the preceding six-month period between January and June. The report shall identify all periods of noncompliance from the requirements of this permit or a statement that no periods of noncompliance occurred during the reporting period.'' *See* Section 7.8.3.1 of the 2022 Plan.

[124] The text incorporated into the SIP would state ''The sulfur dioxide emissions from Sulfuric Acid Plant No. 5 (ID No. S–5) shall not exceed the following emissions limitations: i. Short-Term Limit: 3.2 pounds per ton of 100 percent sulfuric acid production on a 3-hour rolling average basis. ii. Long-Term Limit: 2.5 pounds per ton of 100 percent sulfuric acid production on a 365-day rolling average basis.'' *See* Section 7.8.3.2 of the 2022 Plan.

[125] The text incorporated into the SIP would state ''The sulfur dioxide emissions from Sulfuric Acid Plant No. 6 (ID No. S–6) shall not exceed the following emissions limitations: i. Short-Term Limit: 3.3 pounds per ton of 100 percent sulfuric acid production on a 3-hour rolling average basis. ii. Long-Term Limit: 2.5 pounds per ton of 100 percent sulfuric acid production on a 365-day rolling average basis.'' *See* Section 7.8.3.2 of the 2022 Plan.

[126] The text incorporated into the SIP would state ''The sulfur dioxide emissions from Sulfuric Acid Plant No. 7 (ID No. S–7) shall not exceed the following emissions limitations: i. Short-Term Limit: 3.0 pounds per ton of 100 percent sulfuric acid production on a 3-hour rolling average basis. ii. Long-Term Limit: 1.75 pounds per ton of 100 percent sulfuric acid production on a 365-day rolling average basis.'' *See* Section 7.8.3.2 of the 2022 Plan.

[127] The text incorporated into the SIP would state ''The Permittee shall conduct a Relative Accuracy Test Audit (RATA) at least once every four calendar quarters at each of the Sulfuric Acid Plants No. 5, No. 6, and No. 7 (ID Nos. S–5, S–6, and No. 7) per the procedures of 40 CFR 60.85 for sulfur dioxide and oxygen concentrations and pounds sulfur dioxide per ton of 100 percent sulfuric acid produced as required by 40 CFR part 60 Appendix F, Procedure 1, 5.1.1.'' *See* Section 7.8.3.2 of the 2022 Plan.

[128] The text incorporated into the SIP would state ''For every triennial RATA (*i.e.,* year 1, 4, 7, etc.), the Permittee shall utilize the reference methods and procedures specified in 40 CFR 60.85(b) to generate the Reference Method values for calculating the relative accuracy. In intervening years (*i.e.,* year 2, 3, 5, 6, etc.) the Permittee may use the alternative method specified in 40 CFR 60.85(c) to calculate the Reference Method values.'' *See* Section 7.8.3.2 of the 2022 Plan.

[129] The text incorporated into the SIP would state ''The Permittee shall monitor sulfur dioxide emissions from each of the sulfuric acid plants (ID Nos. S–5, S–6, and S–7), in accordance with the SO_2 CEMS Plan and following procedures: i. The Permittee shall measure the sulfur dioxide concentration (lb/DSCF or ppmvd) and oxygen concentration (percent by volume) at the exit stack at least once every 15 minutes using a sulfur dioxide analyzer and oxygen analyzer. ii. During routine calibration checks and adjustments of any analyzer, the precalibration level shall be used to fill in any analyzer data gaps that occur pending completion of the calibration checks and adjustments. iii. If any one or more than one analyzer is/are not operating, a like-kind replacement (*i.e.* a redundant analyzer) may be used as a substitute. iv. If any one or more than one analyzer is/are not operating for a period of 24 hours or greater and no redundant analyzer is available, data gaps in the array involving the non-operational analyzer(s) shall be filled is as follows: (A) Exit stack gas shall be sampled and analyzed for sulfur dioxide at least once every three hours, while the relevant sulfuric acid plant is operating. Sampling shall be conducted by Reich test or other established method (*e.g.,* portable analyzer). The most recent 3-hour average reading shall be substituted for the four 15-minute average measurements that would otherwise be utilized if the analyzer were operating normally. (B) Oxygen in the exit stack gas shall be sampled and analyzed at least once every three hours, while the relevant sulfuric acid plant is operating. Sampling shall be conducted by Orsat test or other method (*e.g.,* portable analyzer). The most recent 3-hour average reading shall be substituted for the four 15- minute average measurements that would otherwise be utilized if the analyzer were operating normally.'' *See* Section 7.8.3.2 of the 2022 Plan.

[130] The text incorporated into the SIP would state ''The 15-minute analyzer data shall be used to determine the 3-hour rolling averages and 365-day rolling averages to demonstration [sic] compliance with the short-term and long-term sulfur dioxide limits.'' *See* Section 7.8.3.2 of the 2022 Plan.

through(5). EPA is proposing to conditionally approve the sections of the Haze Plan addressing the requirements of 40 CFR 51.308(f)(2), (f)(3), and (i)(2) through(4) due to concerns with the legal and practicable enforceability of certain permit conditions identified in the Haze Plan for incorporation into the SIP.

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. *See* 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 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 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 CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the 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. 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.'' 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.''

North Carolina DAQ evaluated EJ considerations as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. EPA's evaluation of North Carolina DAQ's EJ considerations are described above in the section titled, ''Environmental Justice (EJ) Considerations.'' The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the proposed action. EPA is proposing action under the CAA on bases independent of North Carolina's evaluation of EJ. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based that is 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, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 13, 2024.

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024–18495 Filed 8–19–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 721 and 725

[EPA–HQ–OPPT–2024–0074; FRL–11916–01–OCSPP]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (24–1.5e)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances that were the subject of premanufacture notices (PMNs) and a Microbial Commercial Activity Notice (MCAN) and are also subject to a TSCA Order. The SNURs require persons who intend to manufacture (defined by statute to include import) or process any of these chemical substances for an activity that is proposed as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the conditions of use for that chemical substance. In addition, the manufacture or processing for the significant new use may not commence until EPA has conducted a review of the required notification, made an appropriate determination regarding that notification, and taken such actions as required by that determination.

DATES: Comments must be received on or before September 19, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2024–0074, at *https://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: William Wysong, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental

Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; telephone number: (202) 564–4163; email address: *wysong.william@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What is the Agency's authority for taking this action?

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the factors in TSCA section 5(a)(2) (see also the discussion in Unit II.).

B. What action is the Agency taking?

EPA is proposing SNURs for the chemical substances discussed in Unit III. These SNURs, if finalized as proposed, would require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

C. Does this action apply to me?

1. General Applicability

This action applies to you if you manufacture, process, or use the chemical substances identified in Unit III. This may include entities in North American Industrial Classification System (NAICS) codes 325 and 324110, *e.g.,* chemical manufacturing and petroleum refineries.

2. Applicability to Importers and Exporters

This action may also apply to certain entities through pre-existing import certification and export notification requirements under TSCA (*https://www.epa.gov/tsca-import-export-requirements*).

Chemical importers are subject to TSCA section 13 (15 U.S.C. 2612), the requirements promulgated at 19 CFR 12.118 through 12.127 (see also 19 CFR 127.28), and the EPA policy in support of import certification at 40 CFR part 707, subpart B. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including regulations issued under TSCA sections 5, 6, 7 and Title IV.

Pursuant to 40 CFR 721.20, or 40 CFR 725.920 (for the microorganism), any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after September 19, 2024 are subject to TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

D. What are the incremental economic impacts of this action?

EPA has evaluated the potential costs of establishing SNUN reporting requirements for potential manufacturers (including importers) and processors of the chemical substances subject to these proposed SNURs. This analysis, which is available in the docket, is briefly summarized here.

1. Estimated Costs for SNUN Submissions

If a SNUN is submitted, costs are an estimated $45,000 per SNUN submission for large business submitters and $14,500 for small business submitters. These estimates include the cost to prepare and submit the SNUN (including registration for EPA's Central Data Exchange (CDX)), and the payment of a user fee. Businesses that submit a SNUN would be subject to either a $37,000 user fee required by 40 CFR 700.45(c)(2)(ii) and (d), or, if they are a small business as defined at 13 CFR 121.201, a reduced user fee of $6,480 (40 CFR 700.45(c)(1)(ii) and (d)) per fiscal year 2022. The costs of submission for SNUNs will not be incurred by any company unless a company decides to pursue a significant new use as defined in these SNURs. Additionally, these estimates reflect the costs and fees as they are known at the time of this rulemaking.

2. Estimated Costs for Export Notifications

EPA has also evaluated the potential costs associated with the export notification requirements under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (*i.e.,* the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical substances covered by these SNURs, as stated in the accompanying economic analysis, the estimated cost of the export notification requirement on a per unit basis is approximately $106.

E. What should I consider as I prepare my comments for EPA?

1. Submitting CBI

Do not submit CBI to EPA through email or *https://www.regulations.gov.* If you wish to include CBI in your comment, please follow the applicable instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2 and 703.

2. Tips for Preparing Your Comments

When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Background

This unit provides general information about SNURs. For additional information about EPA's new chemical program go to *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

A. Significant New Use Determination Factors

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, and potential human exposures and environmental releases that may be associated with the substances, in the context of the four bulleted TSCA section 5(a)(2) factors

listed in this unit and discussed in Unit III.

These proposed SNURs include PMN and MCAN substances that are subject to Orders issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). The TSCA Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4).

B. Rationale and Objectives of the SNURs

1. Rationale

Under TSCA, no person may manufacture a new chemical substance or manufacture or process a chemical substance for a significant new use until EPA makes a determination as described in TSCA section 5(a) and takes any required action. The issuance of a SNUR is not a risk determination itself, only a notification requirement for ''significant new uses,'' so that the Agency has the opportunity to review the SNUN for the significant new use and make a TSCA section 5(a)(3) risk determination.

During review of the PMN/MCAN submitted for these chemical substances, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of these chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA Orders requiring the use of appropriate exposure controls were negotiated with the PMN/MCAN submitters. As a general matter, EPA believes it is necessary to follow the TSCA Orders with a SNUR that identifies the absence of those protective measures as significant new uses to ensure that all manufacturers and processors—not just the original submitter—are held to the same standard.

2. Objectives

EPA is proposing these SNURs because the Agency wants:

- To identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4).
- To have an opportunity to review and evaluate data submitted in a SNUN before the submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- To be obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under TSCA section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under TSCA section 5(a)(3)(A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.

Issuance of a proposed SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available at *https://www.epa.gov/tsca-inventory.*

C. Significant New Uses Claimed as CBI

EPA is proposing to establish certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2, 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure at 40 CFR 721.11 to deal with the situation where a specific significant new use is CBI.

Under these procedures, a manufacturer or processor may request EPA to determine whether a specific use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can request if a substance is subject to a SNUR and whether a specific use would be a significant new use under the rule in a single *bona fide* submission.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

D. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to SNURs, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Pursuant to 40 CFR 721.1(c), persons subject to SNURs must comply with the same requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), 5(h)(2), 5(h)(3), and 5(h)(5) and the regulations at 40 CFR part 720. In addition, provisions relating to user fees appear at 40 CFR part 700.

Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury under the conditions of use for the chemical substance or take such regulatory action as is associated with an alternative determination under TSCA section 5 before the manufacture (including import) or processing for the significant new use can commence. If EPA determines that the conditions of use of the chemical substance is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to publish a statement of EPA's findings in the **Federal Register**.

As discussed in Unit I.C.2., persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of

TSCA section 12(b), and persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements. See also *https://www.epa.gov/tsca-import-export-requirements.*

E. Applicability of the Proposed SNURs to Uses Occurring Before the Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule have undergone premanufacture review and received determinations under TSCA section 5(a)(3)(C). TSCA Orders have been issued for these chemical substances and the PMN/MCAN submitters are required by the TSCA Orders to submit a SNUN before undertaking activities that would be designated as significant new uses in these SNURs. Additionally, the identities of many of the chemical substances subject to this proposed rule have been claimed as confidential per 40 CFR 720.85, further reducing the likelihood that another party would manufacture or process the substances for an activity that would be designated as a significant new use. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses identified in Unit III. are ongoing.

When the chemical substances identified in Unit III. are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. Persons who begin manufacture or processing of the chemical substances for a significant new use identified on or after the designated cutoff date specified in Unit III.A. would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and EPA would have to take action under TSCA section 5 allowing manufacture or processing to proceed.

F. Important Information About SNUN Submissions

1. SNUN Submissions

SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E-PMN software is available at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

2. Development and Submission of Information.

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, order or consent agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, TSCA Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs/MCANs and SNUNs, the Agency has the authority to require appropriate testing. To assist with EPA's analysis of the SNUN, submitters are encouraged, but not required, to provide the potentially useful information identified for the chemical substance in Unit III.C. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). For more information on alternative test methods and strategies to reduce vertebrate animal testing, visit *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce.*

The potentially useful information described in Unit III.C. for these chemical substances may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any information may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests to provide useful information with their SNUN submission.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.

III. Chemical Substances Subject to These Proposed SNURs

A. What is the designated cutoff date for ongoing uses?

EPA designates August 20, 2024, as the cutoff date for determining whether the new use is ongoing. This designation is explained in more detail in Unit II.E.

B. What information is provided for each chemical substance?

For each chemical substance identified in Unit III.C., EPA provides the following information:

- PMN or MCAN number (the proposed CFR citation assigned in the regulatory text section of this document).
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service Registry Number (CASRN) (if assigned for non-confidential chemical identities).
- Effective date of and basis for the TSCA Order.
- Potentially useful information.

The regulatory text section of the proposed rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the proposed rules, may be claimed as CBI.

These proposed rules include PMN and MCAN substances that are subject to orders issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). Those TSCA Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4).

C. Which chemical substances are subject to this proposed rule?

The substances subject to the proposed rules in this document are as follows:

PMN Numbers: P–18–356 (40 CFR 721.11894) and P–18–357 (40 CFR 721.11895)

Chemical Names: Sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, sodium salt (generic) (P–18–356) and Sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, potassium salt (generic) (P–18–357).

CASRN: Not available.

Effective Date of TSCA Order: May 2, 2023.

Basis for TSCA Order: The PMNs state that the generic (non-confidential) uses will be as adhesives. Based on comparison to analogous chemical substances, EPA has identified concerns for reproductive and developmental effects, systemic effects, and corrosion to the eyes, skin, and respiratory tract. Based on comparison to analogous polyanionic polymers and monomers, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 6 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No manufacture, processing, or use of the PMN substances in any manner that results in inhalation exposure;
- No processing for use or use of the PMN substances in consumer products;
- No release of the PMN substances, or any waste stream containing the PMN substances, in surface water concentrations that exceed 6 ppb;
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin corrosion, eye damage, specific target organ toxicity, reproductive toxicity, developmental toxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–19–188 (40 CFR 721.11896)

Chemical Name: Octadecanamide, N,N-dialkyl, salts (generic).

CASRN: Not available.

Effective Date of TSCA Order: December 5, 2022.

Basis for TSCA Order: The PMN states that the use will be as a wetting agent and lubricant. Based on the surfactant properties of the PMN substance, EPA has identified concerns for irritation and lung effects (surfactancy). Based on amines, EPA has also identified concerns for irritation to the skin, eyes, and respiratory tract. Based on submitted test data on the PMN substance, EPA has also identified concerns for severe skin and eye irritation, skin corrosion, and scabbing. Based on submitted test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 34 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- No use of the PMN substance in a consumer product;
- No manufacture, processing, or use of the PMN substance in any manner that results in inhalation exposure;
- No release of the PMN substance, or any waste stream containing the PMN substance, in surface water concentrations that exceed 34 ppb; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Numbers: P–20–175 (40 CFR 721.11897), P–20–176 (40 CFR 721.11898), and P–20–178 (40 CFR 721.11899)

Chemical Names: Acid N-[4-(4-diarylalkyl]-, carbopolycyclic alkenyl, methyl ester (generic) (P–20–175); Acid N-(diarylalkyl)-, carbopolycyclic alkenyl, methyl ester (generic) (P–20–176); and Carbopolycyclic alkenyl, 2-carboxylic acid, 2-[[[(diarylalkyl)]carbonyl]oxy]ethyl ester (generic) (P–20–178).

CASRNs: Not available.

Effective Date of TSCA Order: May 15, 2023.

Basis for TSCA Order: The PMNs state that the generic (non-confidential) uses will be as proprietary additive for formulations. Based on the structure alert for isocyanates, EPA has identified concerns for irritation to the eyes, skin, and respiratory tract. Based on comparison to analogous chemical substances, EPA has also identified concerns for respiratory effects and skin and respiratory sensitization for the residual. For the hydrolysis product of the residual, EPA has also identified concerns for systemic effects and cancer. Based on comparison to analogous chemical substances, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 0.1 ppb for P–20–175 and P–20–176 and 0.2 ppb for P–20–178. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No manufacture, processing, or use of the PMN substances in any manner that results in inhalation exposure;
- No release of the PMN substances, or any waste stream containing the PMN substances, in surface water concentrations that exceed 0.1 ppb for P–20–175 and P–20–176 and 0.2 ppb for P–20–178;
- No use of the PMN substances in consumer products;

• Use of personal protective equipment where there is a potential for dermal exposure; and

• Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–21–15 (40 CFR 721.11900)

Chemical Name: Amines, C36-alkylenedi-, polymers with 5,5′-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis[1,3-isobenzofurandione] and 4,4′-[2,2,2-trifluoro-1-(trifluoromethyl)ethylidene] bis[2-aminophenol].

CASRN: 2419899–87–7.

Effective Date of TSCA Order: May 19, 2021.

Basis for TSCA Order: The PMN states that the use will be as a raw material in a temporary bonding adhesive formulation. The adhesive is used to bond completed semiconductor wafers to a backing substrate to facilitate mechanical grinding of the wafer to reduce its thickness. Based on the high molecular weight and low water solubility of the PMN substance, EPA has identified concerns for lung effects (lung overload). Based on test data for the potential incineration product, EPA has also identified concerns for portal-of-entry effects (lesions in the upper respiratory tract and lungs), liver effects, kidney effects, body weight loss, and neurotoxicity.

The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

• No use of the PMN substance other than as a raw material in a temporary bonding adhesive formulation. The adhesive is used to bond completed semiconductor wafers to a backing substrate to facilitate mechanical grinding of the wafer to reduce its thickness;

• No manufacture, processing, or use of the PMN substance in any manner that results in worker inhalation exposure; and

• Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, and neurotoxicity testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Numbers: P–21–32 (40 CFR 721.11901) and P–21–33 (40 CFR 721.11902)

Chemical Names: Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-(1-methylethoxy)- (P–21–32) and Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-butoxy- (P–21–33).

CASRNs: 2304726–48–3 (P–21–32) and 2304726–50–7 (P–21–33).

Effective Date of TSCA Order: April 27, 2023.

Basis for TSCA Order: The PMNs state that the uses will be as chemical intermediates for an asphalt emulsified (20%) and ore flotation (80%). Based on comparison to analogous chemical substances, EPA has identified concerns for acute toxicity, skin and eye corrosion, skin sensitization, systemic effects, and lung effects. Based on comparison to analogous polycationic polymers and aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 220 ppb (P–21–32) and 110 ppb (P–21–33). The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

• No processing or use of the PMN substances in a formulation containing the PMN substances at greater than 4%;

• No processing or use of the PMN substances in consumer products;

• No release of the PMN substances, or any waste stream containing the PMN substances, in surface water concentrations that exceed 110 ppb of the PMN substances combined;

• Use of personal protective equipment where there is a potential for dermal exposure; and

• Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin corrosion, eye damage, skin sensitization, specific target organ toxicity, pulmonary effects, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–21–75 (40 CFR 721.11903)

Chemical Name: Alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, polymer with .alpha.-[(hydroxyalkyl)alkyl]-.omega.-alkoxypoly(oxy-alkanediyl), dialkyl carbonate, alkanediol, alkylene[isocyanato-carbomonocycle] and [oxybis(alkylene)]bis[alkyl-alkanediole] alkenoate, compd. with dialkyalkanamine (generic).

CASRN: Not available.

Effective Date of TSCA Order: May 24, 2023.

Basis for TSCA Order: The PMN states that the use will be as a curable resin for aqueous coatings. Based on the presence of acrylates, EPA has identified concerns for irritation to the skin, eyes, and respiratory tract and skin and respiratory sensitization. Based on

data for the counter ion of the PMN substance, EPA has also identified concerns for skin and eye corrosion, acute toxicity, systemic effects, male reproductive effects, and respiratory tract effects. Based on data for an analogue of the counter ion, EPA also identified concerns for neurotoxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

- No use of the PMN substance in consumer products;
- Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure, or 1000 if spray applied;
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of acute toxicity, specific toxic organ toxicity, pulmonary effects, skin sensitization, and reproductive/developmental toxicity testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–21–80 (40 CFR 721.11904)

Chemical Name: Alkanedioic acid, polymers with alkanoic acid-dipentaerythritol reaction products, alkanedioc acid dihydrazide, hydroxy-(hydroxyalkyl)-alkylalkanoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle, dialkylalkanediol and polyalkylene glycol(hydroxyalkyl)alkyl alkyl ether (generic).

CASRN: Not available.

Effective Date of TSCA Order: May 24, 2023.

Basis for TSCA Order: The PMN states that the use will be as a binder for UV curable coating resin. Based on a structural alert for acrylates and information provided in the SDS, EPA has identified concerns for irritation to the skin, eyes, and respiratory tract. Based on a structural alert for acrylates for the LMW fraction, EPA has also identified concerns for skin and respiratory sensitization. Based on multifunctional reactive groups, EPA has also identified concerns for respiratory sensitization. Based on comparison to analogous chemical substances, EPA has also identified concerns for skin irritation, clinical signs, systemic effects (decreased body weight and body weight gains, reduced food consumption, blood, adrenal, thymus, and brain effects), and irritation in the GI tract (stomach, cecum, colon, duodenum, ileum, and/or jejunum). The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

- No use of the PMN substance in consumer products;
- Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure, or 1000 if spray applied;
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin irritation, specific toxic organ toxicity, eye damage, and skin sensitization testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–21–96 (40 CFR 721.11905)

Chemical Name: Phenol, 4,4′-(1-methylethylidene)bis-, polymer with 2,2′-[(1-methylethylidene) bis (4,1-phenyleneoxymethylene)] bis [heteromonocycle], bis(2-methyl-2-propenoate) (generic).

CASRN: Not available.

Effective Date of TSCA Order: May 17, 2023.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use will be as a component in thermoset composites. Based on comparison to analogous chemical substances, EPA has identified concerns for dermal, respiratory, and eye irritation, skin sensitization, systemic effects, and reproductive and developmental effects. Based on the presence of methacrylates, EPA has also identified concerns for respiratory sensitization. Based on comparison to analogous acrylates/methacrylates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No manufacture, processing, or use of the PMN substance in any manner that results in inhalation exposure;
- No release of the PMN substance, or any waste stream containing the PMN substance, in surface water concentrations that exceed 2 ppb;
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of skin sensitization, neurotoxicity, specific target organ toxicity, developmental toxicity, reproductive toxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the

PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–21–98 (40 CFR 721.11906)

Chemical Name: Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-[2(or 3)-[[substituted benzoyl]oxy]hydroxypropoxyl]-, .alpha., .alpha.', .alpha.'' -ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1) (generic).

CASRN: Not available

Effective Date of TSCA Order: May 10, 2023.

Basis for TSCA Order: The PMN states that the use will be as a co-initiator for the curing of UV printing inks. Based on comparison to analogous chemical substances, EPA has identified concerns for skin sensitization and reproductive and systemic effects. Based on the surfactant properties of the PMN substance, EPA also identified concerns for lung effects and irritation to the skin, eyes, and respiratory tract. Based on comparison to analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 12 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No use of the PMN substance in consumer products;
- No manufacture or processing of the PMN substance in any manner that results in inhalation exposure;
- No use of the PMN substance in formulations at concentrations greater than 4%;
- No release of the PMN substance, or any waste stream containing the PMN substance, in surface water concentrations that exceed 12 ppb;
- Use of a NIOSH-certified combination particulate and gas/vapor respirator with an APF of at least 10 where there is a potential for inhalation exposure;
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity, skin sensitization, skin irritation/corrosion, eye irritation/corrosion, pulmonary effects, reproductive toxicity, and specific target organ toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–21–126 (40 CFR 721.11907)

Chemical Name: Substituted heteromonocycle, polymer with haloalkyl substituted heteromonocycle, dialkyl-alkanediamine, (alkylalkylidene) bis [hydroxycarbomonocycle] and oxybls[alkanol], reaction products with metal oxide and dialkanolamine (generic).

CASRN: Not available.

Effective Date of TSCA Order: May 1, 2023.

Basis for TSCA Order: The PMN states that the use will be as a component in several coating resin products that are only applied by cathodic electrodeposition and used as additives for corrosion protection. Based on submitted test data, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 230 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to the environment. To protect against these risks, the Order requires:

- No release of the PMN substance, or any waste stream containing the PMN substance, in surface water concentrations that exceed 230 ppb; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–21–175 (40 CFR 721.11908)

Chemical Name: Carbonic acid, diphenyl ester, polymer with 1,4-butanediol and 1,10-decanediol.

CASRN: 1615685–41–0.

Effective Date of TSCA Order: March 1, 2023.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the PMN substance will be as a raw material of polyurethane. Based on comparison to analogous esters and test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 22 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to the environment. To protect against these risks, the Order requires:

- No release of the PMN substance resulting in surface water concentrations that exceed 22 ppb; and
- Establishment of a hazard communication program, including precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of chronic aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–7 (40 CFR 721.11909)

Chemical Name: 3,5,8-Trioxa-4-silaalkanoic acid, 4-ethenyl-4-(2-alkoxy-1-alkyl-2-oxoethoxy)-2,6-dialkyl-7-oxo-, alkyl ester (generic).

CASRN: Not available.

Effective Date of TSCA Order: February 3, 2023.

Basis for TSCA Order: The PMN states that the use will be as a crosslinker in formulating general purpose sealants and adhesives for use in consumer and professional markets. Based on test data on the PMN substance, EPA has identified concerns for eye irritation. Based on comparison to analogous chemical substances, EPA has also identified concerns for systemic effects. Based on test data for hydrolysis products of the PMN substance, EPA has also identified concerns for respiratory tract irritation and reproductive and developmental effects. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- No processing or use of the PMN substance other than as a crosslinker in formulating general purpose sealants and adhesives;
- No processing for use or use of the PMN substance where the concentration of the PMN substance exceeds 6% by weight in consumer products;
- No processing for use or use of the PMN substance in consumer products other than in the form of a paste;
- No manufacture, processing, or use of the PMN substance in any manner that results in inhalation exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, reproductive toxicity, and developmental toxicity testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–8 (40 CFR 721.11910)

Chemical Name: .beta.-N-Acetylhexosaminidase (expressed in genetically modified Bacillus licheniformis strain ATJI0138).

CASRN: 9012–33–3.

Effective Date of TSCA Order: March 3, 2023.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use will be as a biocatalyst used in a variety of products. Based on comparison to analogous chemical substances, EPA has identified concerns for skin irritation, eye irritation, respiratory irritation, skin sensitization, respiratory sensitization, portal-of-entry (oral) effects, and systemic effects. Based on comparison to analogous polyamphoteric polymers and test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1,000 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No manufacture, processing, or use of the PMN substance in any manner that results in inhalation exposure;
- No processing of the PMN substance to greater than 1% in formulation for use in a consumer product;
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of eye irritation, skin irritation, skin sensitization, and pulmonary effects testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–9 (40 CFR 721.11911)

Chemical Name: Alkanes, C4–9-branched and linear.

CASRN: 2577172–51–9.

Effective Date of TSCA Order: January 24, 2023.

Basis for TSCA Order: The PMN states that the use will be as a gasoline blending component to reduce the average carbon intensity and subsequent CO2 emissions of fuel. Based on comparison to analogous chemical mixtures, EPA has identified concerns for respiratory tract irritation, carcinogenicity, neurotoxicity, ototoxicity, portal-of-entry (inhalation and oral), systemic (body weight, liver, kidney, blood, adrenal, and spleen) toxicity, developmental effects, reproductive effects, acute toxicity, skin irritation, eye irritation, and aspiration hazard. Based on the chemical composition (petroleum) and n-nonane, EPA also identified concerns for hydrocarbon pneumonia and aspiration hazard. Based on comparison to analogous neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 3 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- Manufacture, processing, and use of the PMN substance only as a fuel, refinery feedstock, a chemical feedstock, or a fuel blending additive or component;
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to

modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity, skin irritation, eye irritation, respiratory depression/irritation, hydrocarbon pneumonia/aspiration hazard, reproductive/developmental toxicity, systemic toxicity, genetic toxicity, carcinogenicity, and consumer inhalation exposures at gas stations testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–10 (40 CFR 721.11912)

Chemical Name: Amino alkanoic acid, N-[3-(trimethoxysilyl)propyl]-, 3-(trimethoxysilyl)propyl ester (generic).

CASRN: Not available.

Effective Date of TSCA Order: March 16, 2023.

Basis for TSCA Order: The PMN states that the use will be as part of an industrial adhesive. Based on comparison to analogous alkoxysilanes, EPA has identified concerns for lung pathology and systemic effects. Based on comparison to analogous chemical substances, EPA has also identified concerns for mortality, skin irritation, eye corrosion, respiratory irritation, portal-of-entry, neurotoxicity, systemic, and reproductive effects. Based on a hydrolysis product, EPA has also identified concerns for systemic, neurotoxicity, and developmental effects. Based on comparison to analogous alkoxysilanes and aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 80 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No use of the PMN substance in consumer products;
- No manufacture, processing, or use of the PMN substance in any manner that results in inhalation exposure;
- No release of the PMN substance, or any waste stream containing the PMN substance, in surface water concentrations that exceed 80 ppb;
- Use of personal protective equipment where there is a potential for dermal exposure;
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–13 (40 CFR 721.11913)

Chemical Name: 2-Pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo, aryl ester (generic).

CASRN: Not available.

Effective Date of TSCA Order: March 2, 2023.

Basis for TSCA Order: The PMN states that the use will be as a raw material/intermediate, site-limited, destructive use. Based on test data for the ester hydrolysis products, EPA has identified concerns for skin sensitization, eye irritation, and systemic and neurotoxicity effects. Based on comparison to analogous anilines and esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 4 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- Manufacture, processing, and use of the PMN substance only in a solid form when using a dust collection system with a capture and control efficiency of at least 32% to control dust exposure;
- No use of the PMN substance other than as an intermediate;
- No release of the PMN substance, or any waste stream containing the PMN substance, into waters of the United States;
- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity, neurotoxicity, eye irritation/corrosion, skin sensitization, specific target organ toxicity, and persistence and bioaccumulation testing may be potentially useful to characterize the health, environmental, and fate effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–15 (40 CFR 721.11914)

Chemical Name: 2-Pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo (generic).

CASRN: Not available.

Effective Date of TSCA Order: March 6, 2023.

Basis for TSCA Order: The PMN states that the use will be as a raw material/intermediate, site-limited, destructive use. Based on comparison to analogous chemical substances, EPA has identified concerns for eye irritation and systemic effects. Based on comparison to analogous anilines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 14 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- Manufacture, processing, and use of the PMN substance only in a solid form when using a dust collection system with a capture and control efficiency of at least 32% to control dust exposure;
- No use of the PMN substance other than as an intermediate;

• No release of the PMN substance, or any waste stream containing the PMN substance, into waters of the United States;
• Use of personal protective equipment where there is a potential for dermal exposure;
• Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;
• Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity, eye irritation, specific target organ toxicity, and persistence and bioaccumulation testing may be potentially useful to characterize the health, environmental, and fate effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–37 (40 CFR 721.11915)

Chemical Name: Polyphosphoric acids, esters with heteromonocycle homopolymer (generic).

CASRN: Not available.

Effective Date of TSCA Order: April 3, 2023.

Basis for TSCA Order: The PMN states that the use will be as an adhesion promoter used in coatings for better adhesion to metals under high humidity conditions. Based on comparison to analogous chemical substances, EPA has identified concerns for irritation/corrosion to the skin, eyes, and respiratory tract, clinical signs, and systemic effects. Based on the surfactant-like properties of the PMN substance, EPA has also identified concerns for lung effects (surfactancy). Based on comparison to analogous phosphates—inorganic and polyanionic polymers (& monomers) and the standard toxicity profile for inorganic phosphate, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

• No processing of the PMN substance to greater than 1% in formulation;
• No use of the PMN substance in a formulation containing the PMN substance at a concentration greater than 1%;
• No processing for use or use of the PMN substance in consumer products;
• No release of the PMN substance, or any waste stream containing the PMN substance, in surface water concentrations that exceed 2 ppb;
• Use of personal protective equipment where there is a potential for dermal exposure;
• Use of a NIOSH-certified combination particulate and gas/vapor respirator with an APF of at least 50 where there is a potential for inhalation exposure; and
• Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, skin corrosion, eye irritation/corrosion, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–44 (40 CFR 721.11916)

Chemical Name: Silica gel, reaction products with alkyl metal salt (generic).

CASRN: Not available.

Effective Date of TSCA Order: February 16, 2023.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use will be as a site-limited intermediate. Based on the reactivity of the parent substance, EPA has identified concerns for eye irritation, skin irritation, and respiratory tract irritation. Based on test data for analogues of the hydrolysis products, EPA has also identified concerns for lung, systemic, reproductive, and developmental effects. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

• Manufacture, processing, and use of the PMN substance only in an enclosed process;
• Use of personal protective equipment where there is a potential for dermal exposure;
• Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure; and
• Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of eye irritation, skin irritation, and specific target organ toxicity testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–54 (40 CFR 721.11917)

Chemical Name: Graphene nanoplatelets (generic).

CASRN: Not available.

Effective Date of TSCA Order: March 17, 2023.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use will be as an additive for paint coatings. Based on comparison to analogous chemical substances, EPA has identified concerns for lung effects and systemic effects. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable

risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No manufacture of the PMN substance other than by import into the United States in the form of a solution (*i.e.,* no domestic manufacture);
- No processing of the PMN substance in any manner that results in inhalation exposure;
- No processing or use of the PMN substance other than in a liquid formulation;
- No use of the PMN substance other than for the confidential use listed in the Order;
- No use of the PMN substance in an application method where the concentration of the PMN substance in the formulation exceeds the confidential concentration listed in the Order;
- No release of the PMN substance, or any waste stream containing the PMN substance, into waters of the United States;
- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified combination particulate and gas/vapor respirator with an APF of at least 50 where there is a potential for inhalation exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, sediment toxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Numbers: P–22–86 (40 CFR 721.11918), P–22–122 (40 CFR 721.11919), P–22–179 (40 CFR 721.11920), and P–22–180 (40 CFR 721.11921)

Chemical Names: Phenoxathiinium, 10-phenyl-, 5-alkyl-2-alkyl-4-(2,4,6-substituted tri-carbopolycycle, hetero-acid)benzenesulfonate (1:1) (generic) (P–22–86), Heterotrisubstituted-bile acid, 1-(difluorosulfomethyl)-2,2,2-trifluoroethyl ester, ion(1-), (5)-, 5-phenyldibenzothiophenium (1:1) (generic) (P–22–122), Sulfonium, (alkylsubstitutedphenyl)diphenyl-, salt with 1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkyl trisubstitutedbenzoate (1:1) (generic) (P–22–179), and Dibenzothiophenium, 5-phenyl-, 4-[1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkoxy]-4-oxoalkyl trisubstitutedbenzoate (1:1) (generic) (P–22–180).

CASRNs: Not available.

Effective Date of TSCA Order: January 24, 2023.

Basis for TSCA Order: The PMNs state that the generic (non-confidential) use of the PMN substances will be for contained used for microlithography for electronic device manufacturing. Based on the physical/chemical properties of the PMN substances (as described in the New Chemical Program's PBT category at 64 FR 60194; November 1999), the PMN substances are potentially persistent, bioaccumulative, and toxic (PBT) chemicals. EPA estimates that the PMN substances will persist in the environment for more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. Based on the reactivity of the PMN substances, EPA has identified concerns for photosensitization and irritation to the skin, eyes, and respiratory tract. Based on information provided in the SDS, EPA has also identified concerns for acute toxicity and irritation to the skin, eyes, and respiratory tract. Based on confidential analogous compounds, EPA has also identified concerns for acute toxicity, irritation to the skin, eyes, and respiratory tract, eye corrosion, ocular lethality, neurological effects, and systemic effects for the confidential cation of the PMN substances. Based on comparison to analogous substances, EPA has also identified concerns for mutagenicity. Based on a potential incineration by-product, EPA has also identified concerns for local, neurotoxic, and systemic effects for P–22–122, P–22–179, and P–22–180. Based on OECD QSAR Toolbox results, EPA has also identified hazards for skin sensitization and carcinogenicity for the anion for P–22–179 and P–22–180. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health or the environment.

To protect against these risks, the Order requires:

- No manufacture of any of the PMN substances beyond the time limits specified in the Order without submittal to EPA the results of certain testing described in the Testing section of the Order;
- Use of personal protective equipment where there is a potential for dermal exposure;
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS;
- No processing or use of the PMN substances in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process;
- Use of the PMN substances only for the confidential use stated in the Order;
- No domestic manufacture of the PMN substances (*i.e.,* import only);
- Import of the PMN substances only in solution, or in any form in sealed containers weighing 5 kilograms or less; and
- No exceedance of the confidential annual importation volumes listed the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information about the physical/chemical properties, fate, bioaccumulation, environmental hazard, and human health effects of the PMN substances may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the time limits specified in the Order without performing the required Tier I and Tier II testing outlined in the Testing section of the Order.

PMN Number: P–22–115 (40 CFR 721.11922)

Chemical Name: .beta.-cyclodextrin, polymer with 2,3,5,6-tetrafluoro-1,4-benzenedicarbonitrile, hydrolyzed, 2-(trimethylammonio)ethyl ethers, chlorides.

CASRN: 2683011–63–2.

Effective Date of TSCA Order: May 9, 2023.

Basis for TSCA Order: The PMN states that the uses will be as a filter media integrated and encapsulated in block filter articles for consumer, industrial, and commercial applications, filter media integrated and encapsulated in filter articles for consumer applications, and filter media integrated and encapsulated in packed bed filters for industrial and commercial applications.

Based on the high molecular weight polymer and low water solubility, EPA has identified concerns for lung effects (lung overload). Based on amine content, EPA has also identified concerns for irritation to the skin, eyes, and respiratory tract. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

- No processing for use or use of the PMN substance in consumer products except when incorporated into an article;
- No manufacture, processing, or use of the PMN substance with a particle size less than 20 microns;
- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified particulate respirator with an APF of at least 10 where there is a potential for inhalation exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary effects, skin irritation, and eye irritation testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

PMN Number: P–22–129 (40 CFR 721.11923)

Chemical Name: Substituted heterocyclic onium compound, salt with heteropolysubstitutedalkyl substitutedtricycloalkane carboxylate (1:1), polymer with 1-alkenyl-4-[(alkylcycloalkyl)oxy]carbomonocycle, 5-ethyloctahydro-4,7-methano-1H-inden-5-yl 2-methyl-2-propenoate, hexahydro-5-oxo-2,6-methanofuro[3,2-b]furan-3-yl 2-methyl-2-propenoate and 4-hydroxyphenyl 2-methyl-2-propenoate (generic).

CASRN: Not available.

Effective Date of TSCA Order: April 24, 2023.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the PMN substance will be for contained use for microlithography for electronic device manufacturing. Based on the physical/chemical properties of the PMN substance (as described in the New Chemical Program's PBT category at 64 FR 60194, November 4, 1999 (FRL–6097–7)), the PMN substance is a potentially persistent, bioaccumulative, and toxic (PBT) chemical. EPA estimates that the PMN substance will persist in the environment for more than six months and estimates a bioaccumulation factor of greater than or equal to 1,000. Based on the reactivity of the PMN substance, EPA has identified concerns for photosensitization, and irritation to the skin, eyes, and respiratory tract. Based on the cation of the PMN substance and information provided in the SDS, EPA has also identified concerns for acute toxicity, irritation to the skin, eyes, and respiratory tract, eye corrosion, ocular lethality, neurological effects, and systemic effects. Based on comparison to analogous chemical substances, EPA has also identified concerns for mutagenicity. Based on a potential incineration by-product, EPA has also identified concerns for local, neurotoxic, and systemic effects. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- No manufacture of the PMN substance beyond the time limits specified in the Order without submittal to EPA the results of certain testing described in the Testing section of the Order;
- Use of personal protective equipment where there is a potential for dermal exposure;
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS;
- No modification of the processing or use of the PMN substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process;
- Use of the PMN substance only for the confidential use listed in the Order;
- No domestic manufacture of the PMN substance (*i.e.,* import only);
- Import of the PMN substance only in solution, or in any form in sealed containers weighing 5 kilograms or less; and
- No exceedance of the confidential annual importation volume listed the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information about the physical/chemical properties, fate, bioaccumulation, environmental hazard, and human health effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the time limits specified in the Order without performing the required Tier I and Tier II testing outlined in the Testing section of the Order.

PMN Number: P–22–162 (40 CFR 721.11924)

Chemical Name: Haloalkylfurancarboxaldehyde (generic).

CASRN: Not available.

Effective Date of TSCA Order: May 8, 2023.

Basis for TSCA Order: The PMN states that the use will be as a chemical intermediate used in the production of para-xylene and in production of FDCA/PET and other specialty chemicals. Based on submitted test data on the PMN substance and comparison to analogous chemical substances, EPA has identified concerns for acute toxicity, skin and respiratory tract irritation, serious eye damage, skin sensitization, systemic effects, developmental effects, and genotoxicity. Based on comparison to analogous aldehydes and submitted acute toxicity data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 540 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No processing or use of the PMN substance in consumer products;
- No manufacture, processing, or use of the substance in any manner that results in inhalation exposure;
- No release of the PMN substance, or any waste stream containing the PMN

substance, in surface water concentrations that exceed 540 ppb;

- Use of personal protective equipment where there is a potential for dermal exposure;
- Disposal of the PMN substance, or any waste steams containing the PMN substance, only by hazardous waste incineration achieving at least 99.99% destruction of the PMN substance;
- Manufacture, processing, or use of the PMN substance only in an enclosed process; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of reproductive toxicity, specific target organ toxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

MCAN Number: J–23–3 (40 CFR 725.1082)

Chemical Name: Microorganism expressing enzymes (generic).

CASRN: Not available.

Effective Date of TSCA Order: April 21, 2023.

Basis for TSCA Order: The MCAN states that the generic (non-confidential) use of the microorganism will be for production of an enzyme mixture. EPA determined that certain fermentation conditions, other than the typical submerged standard industrial fermentation process for enzyme production, could result in increased exposures. Specifically, EPA is concerned that where growth on plant material or on solid substrates occur, the MCAN microorganism has been shown to produce a secondary metabolite known as paracelsin, which is associated with a variety of toxic effects to mammalian and bacterial cells. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the microorganism may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

- No manufacture, processing, or use of the microorganism other than in a fermentation system that meets all of the following conditions:

(1) Enzyme production is conducted under conditions of submerged fermentation (*i.e.,* growth of the microorganism occurs beneath the surface of the liquid growth medium); and

(2) Any fermentation of solid plant material or insoluble substrate, to which the fermentation broth is added after the submerged standard industrial fermentation operations used for enzyme production is completed, may be initiated only after the inactivation of the microorganism as delineated in 40 CFR 725.422(d).

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that the results of the following studies would help characterize any potential human health and environmental effects of the MCAN microorganism if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this SNUR:

- Investigation of whether paracelsin will be produced, and at what levels if the MCAN microorganism is grown on various plant biomass materials for different durations under various fermentation conditions in cellulosic biomass facilities.
- If paracelsin is produced, a study of whether paracelsin would be denatured/inactivated during production and processing.
- If paracelsin is released from the facility, a study of whether paracelsin would be degraded/inactivated during wastewater treatment.
- If released to the environment, studies on the persistence, stability, dissemination, accumulation, and the potential resulting biological activity of paracelsin with exposure to aquatic and terrestrial organisms in the environment.
- Studies to determine the ability of the MCAN microorganism to survive in the environment relative to the survival of the unmodified parent or recipient strain, and to assess its competitiveness with other fungi in the environment. This study may require some supplementation with one or more carbon sources and the use of various soil types.
- A study to determine survival of the MCAN microorganism during an anaerobic fermentation for production of ethanol by an ethanologen, and survival of the MCAN microorganism during ethanol distillation or at the distillation temperature for ethanol.

Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action proposes to establish SNURs for new chemical substances that were the subject of PMNs or MCANs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023).

B. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to SNURs have already been approved by OMB pursuant to PRA under OMB control number 2070–0038 (EPA ICR No. 1188). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per submission. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

EPA always welcomes your feedback on the burden estimates. Send any comments about the accuracy of the

burden estimate, and any suggested methods for improving the collection instruments or instruction or minimizing respondent burden, including through the use of automated collection techniques.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, EPA has concluded that no small or large entities presently engage in such activities.

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was 16 in Federal fiscal year (FY) FY2018, five in FY2019, seven in FY2020, 13 in FY2021, 11 in FY2022, and 15 in FY2023, and only a fraction of these submissions were from small businesses.

In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $37,000 to $6,480. This lower fee reduces the total reporting and recordkeeping cost of submitting a SNUN to about $14,500 per SNUN submission for qualifying small firms. Therefore, the potential economic impacts of complying with these proposed SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more (in 1995 dollars) in any one year as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by SNURs. In addition, the estimated costs of this action to the private sector do not exceed $183 million or more in any one year (the 1995 dollars are adjusted to 2023 dollars for inflation using the GDP implicit price deflator). The estimated costs for this action are discussed in Unit I.D.

E. Executive Order 13132: Federalism

This action will not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it is not expected to have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the requirements of Executive Order 13132 do not apply to this action.

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

This action will not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it is not expected to have substantial direct effects on Indian Tribes, significantly or uniquely affect the communities of Indian Tribal governments and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 do not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it does not concern an environmental health or safety risk. Since this action does not concern human health, EPA's 2021 Policy on Children's Health also does not apply. Although the establishment of these SNURs do not address an existing children's environmental health concern because the chemical uses involved are not ongoing uses, SNURs require that persons notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use by this rule. This notification allows EPA to assess the conditions of use to identify potential risks and take appropriate actions before the activities commence.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards subject to NTTAA section 12(d) (15 U.S.C. 272 note).

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

This action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to the potential for disproportionate impacts on non-white and low-income populations in accordance with Executive Order 12898 (59 FR 7629, February 16, 1994) and Executive Order 14096 (88 FR 25251, April 26, 2023). Although this action does not concern human health or environmental conditions, the premanufacture notifications required by these SNURs allow EPA to assess the conditions of use to identify potential disproportionate risks and take appropriate actions before the activities commence.

List of Subjects in 40 CFR Part 721 and 725

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 9, 2024.

Mark Hartman,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, for the reasons stated in the preamble, EPA proposes to amend 40 CFR chapter I as follows:

PART 721–SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add §§ 721.11894 through 721.11924 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

* * * * *

Sec.

721.11894 Sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, sodium salt (generic).

721.11895 Sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, potassium salt (generic).

721.11896 Octadecanamide, N,N-dialkyl, salts (generic).

721.11897 Acid N-[4-(4-diarylalkyl]-, carbopolycyclic alkenyl, methyl ester (generic).

721.11898 Acid N-(diarylalkyl)-, carbopolycyclic alkenyl, methyl ester (generic).

721.11899 Carbopolycyclic alkenyl, 2-carboxylic acid, 2-[[[(diarylalkyl)]carbonyl]oxy]ethyl ester (generic).

721.11900 Amines, C36-alkylenedi-, polymers with 5,5′-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis[1,3-isobenzofurandione] and 4,4′-[2,2,2-trifluoro-1-(trifluoromethyl)ethylidene] bis[2-aminophenol].

721.11901 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-(1-methylethoxy)-.

721.11902 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-butoxy-.

721.11903 Alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, polymer with .alpha.-[(hydroxyalkyl)alkyl]-.omega.-alkoxypoly(oxy-alkanediyl), dialkyl carbonate, alkanediol, alkylene[isocyanato-carbomonocycle] and [oxybis(alkylene)]bis[alkyl-alkanediole] alkenoate, compd. with dialkylalkanamine (generic).

721.11904 Alkanedioic acid, polymers with alkanoic acid-dipentaerythritol reaction products, alkanedioc acid dihydrazide, hydroxy-(hydroxyalkyl)-alkylalkanoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle, dialkylalkanediol and polyalkylene glycol(hydroxyalkyl)alkyl alkyl ether (generic).

721.11905 Phenol, 4,4′-(1-methylethylidene)bis-, polymer with 2,2′-[(1-methylethylidene)bis(4,1-phenyleneoxymethylene)] bis [heteromonocycle], bis(2-methyl-2-propenoate) (generic).

721.11906 Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-[2(or 3)-[[substituted benzoyl]oxy]hydroxypropoxyl]-, .alpha., .alpha.', .alpha.'' -ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1) (generic).

721.11907 Substituted heteromonocycle, polymer with haloalkyl substituted heteromonocycle, dialkyl-alkanediamine, (alkylalkylidene)bis[hydroxy-carbomonocycle] and oxybis[alkanol], reaction products with metal oxide and dialkanolamine (generic).

721.11908 Carbonic acid, diphenyl ester, polymer with 1,4-butanediol and 1,10-decanediol.

721.11909 3,5,8-Trioxa-4-silaalkanoic acid, 4-ethenyl-4-(2-alkoxy-1-alkyl-2-oxoethoxy)-2,6-dialkyl-7-oxo-, alkyl ester (generic).

721.11910 .beta.-N-Acetylhexosaminidase (expressed in genetically modified Bacillus licheniformis strain ATJI0138).

721.11911 Alkanes, C4–9-branched and linear.

721.11912 Amino alkanoic acid, N-[3-(trimethoxysilyl)propyl]-, 3-(trimethoxysilyl)propyl ester (generic).

721.11913 2-Pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo, aryl ester (generic).

721.11914 2-Pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo- (generic).

721.11915 Polyphosphoric acids, esters with heteromonocycle homopolymer (generic).

721.11916 Silica gel, reaction products with alkyl metal salt (generic).

721.11917 Graphene nanoplatelets (generic)

721.11918 Phenoxathiinium, 10-phenyl-, 5-alkyl-2-alkyl-4-(2,4,6-substituted tri-carbopolycycle, hetero-acid)benzenesulfonate (1:1) (generic).

721.11919 Heterotrisubstituted-bile acid, 1-(difluorosulfomethyl)-2,2,2-trifluoroethyl ester, ion(1-), (5)-, 5-phenyldibenzothiophenium (1:1) (generic).

721.11920 Sulfonium, (alkylsubstitutedphenyl)diphenyl-, salt with 1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkyl trisubstitutedbenzoate (1:1) (generic).

721.11921 Dibenzothiophenium, 5-phenyl-, 4-[1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkoxy]-4-oxoalkyl trisubstitutedbenzoate (1:1) (generic).

721.11922 .beta.-cyclodextrin, polymer with 2,3,5,6-tetrafluoro-1,4-benzenedicarbonitrile, hydrolyzed, 2-(trimethylammonio)ethyl ethers, chlorides.

721.11923 Substituted heterocyclic onium compound, salt with heteropolysubstitutedalkyl substitutedtricycloalkane carboxylate (1:1), polymer with 1-alkenyl-4-[(alkylcycloalkyl)oxy]carbomonocycle, 5-ethyloctahydro-4,7-methano-1H-inden-5-yl 2-methyl-2-propenoate, hexahydro-5-oxo-2,6-methanofuro[3,2-b]furan-3-yl 2-methyl-2-propenoate and 4-hydroxyphenyl 2-methyl-2-propenoate (generic).

721.11924 Haloalkylfurancarboxaldehyde (generic).

§ 721.11894 Sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, sodium salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, sodium salt (PMN P–18–356) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1), (3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin corrosion; serious eye damage; reproductive toxicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=6.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11895 Sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, potassium salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonated phenolic resin salt, polymer with acetone-phenol reaction products, formaldehyde and phenol, potassium salt (PMN P–18–357) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1), (3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin corrosion; serious eye damage; reproductive toxicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=6.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11896 Octadecanamide, N,N-dialkyl, salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as octadecanamide, N,N-dialkyl, salts (PMN P–19–188) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1), (3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; specific target organ toxicity; serious eye damage. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=34.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11897 Acid N-[4-(4-diarylalkyl]-, carbopolycyclic alkenyl, methyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as acid N-[4-(4-diarylalkyl]-, carbopolycyclic alkenyl, methyl ester (PMN P–20–175) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (3), and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; respiratory sensitization; skin sensitization; carcinogenicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=0.1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11898 Acid N-(diarylalkyl)-, carbopolycyclic alkenyl, methyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as acid N-(diarylalkyl)-, carbopolycyclic alkenyl, methyl ester (PMN P–20–176) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (3) and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; respiratory sensitization; skin sensitization; carcinogenicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=0.1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11899 Carbopolycyclic alkenyl, 2-carboxylic acid, 2-[[[(diarylalkyl)] carbonyl]oxy] ethyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbopolycyclic alkenyl, 2-carboxylic acid, 2-[[[(diarylalkyl)]carbonyl]oxy]ethyl ester (PMN P–20–178) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (3) and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; respiratory sensitization; skin sensitization; carcinogenicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=0.2.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11900 Amines, C36-alkylenedi-, polymers with 5,5′-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis[1,3-isobenzofurandione] and 4,4′-[2,2,2-trifluoro-1-(trifluoromethyl) ethylidene]bis[2-aminophenol].

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as amines, C36-alkylenedi-, polymers with 5,5′-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis[1,3-isobenzofurandione] and 4,4′-[2,2,2-trifluoro-1-(trifluoromethyl)ethylidene] bis[2-aminophenol] (PMN P–21–15; CASRN 2419899–87–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance other than as a raw material in a temporary bonding adhesive formulation. The adhesive is used to bond completed semiconductor wafers to a backing substrate to facilitate mechanical grinding of the wafer to reduce its thickness. It is a significant new use to manufacture, process, or use the substance in any manner that results in worker inhalation exposure.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11901 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-(1-methylethoxy)-.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-(1-methylethoxy)- (PMN P–21–32; CASRN 2304726–48–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or destroyed.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (3), and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin corrosion; serious eye damage; skin sensitization; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to process or use the substance in any manner in formulation containing the substance at greater than 4%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=110. Whenever the substance is released together with poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-butoxy-(PMN P–21–33; CASRN 2304726–50–7), N should be calculated using the combined number of kilograms of both substances released per site per day.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11902 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-butoxy-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-butoxy-(PMN P–21–33; CASRN 2304726–50–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or destroyed.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (3) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin corrosion; serious eye damage; skin sensitization; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to process or use the substance in any manner in formulation containing the substance at greater than 4%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=110. Whenever the substance is released together with poly[oxy(methyl-1,2-ethanediyl)], .alpha.-(3-aminopropyl)-.omega.-(1-methylethoxy)- (PMN P–21–32; CASRN 2304726–48–3), N should be calculated using the combined number of kilograms of both substances released per site per day.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11903 Alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, polymer with .alpha.-[(hydroxyalkyl)alkyl]-.omega.-alkoxypoly(oxy-alkanediyl), dialkyl carbonate, alkanediol, alkylene[isocyanato-carbomonocycle] and [oxybis(alkylene)]bis[alkyl-alkanediole] alkenoate, compd. with dialkylalkanamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, polymer with .alpha.-[(hydroxyalkyl)alkyl]-.omega.-alkoxypoly(oxy-alkanediyl), dialkyl carbonate, alkanediol, alkylene[isocyanato-carbomonocycle] and [oxybis(alkylene)]bis[alkyl-alkanediole] alkenoate, compd. with dialkylalkanamine (PMN P–21–75) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50, or 1000 if spray applied.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin corrosion; skin irritation; serious eye damage; eye irritation; respiratory sensitization; reproductive toxicity; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11904 Alkanedioic acid, polymers with alkanoic acid-dipentaerythritol reaction products, alkanedioc acid dihydrazide, hydroxy-(hydroxyalkyl)-alkylalkanoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle, dialkylalkanediol and polyalkylene glycol(hydroxyalkyl)alkyl alkyl ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanedioic acid, polymers with alkanoic acid-dipentaerythritol reaction products, alkanedioc acid dihydrazide, hydroxy-(hydroxyalkyl)-alkylalkanoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle, dialkylalkanediol and polyalkylene glycol(hydroxyalkyl)alkyl alkyl ether (PMN P–21–80) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50, or 1000 if spray applied.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; respiratory sensitization; skin sensitization; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11905 Phenol, 4,4′-(1-methylethylidene) bis-, polymer with 2,2′-[(1-methylethylidene) bis (4,1-phenyleneoxymethylene)] bis [heteromonocycle], bis (2-methyl-2-propenoate) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phenol, 4,4′-(1-methylethylidene)bis-, polymer with 2,2′-[(1-methylethylidene)bis(4,1-phenyleneoxymethylene)] bis [heteromonocycle], bis (2-methyl-2-propenoate) (PMN P–21–96) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (3) and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; respiratory sensitization; skin sensitization; reproductive toxicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=2.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11906 Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-[2(or 3)-[[substituted benzoyl]oxy]hydroxypropoxyl]-, .alpha., .alpha.', .alpha.'' -ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-[2(or 3)-[[substituted benzoyl]oxy]hydroxypropoxyl]-, .alpha., .alpha.', .alpha.'' -ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1) (PMN P–21–98) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (3) and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; skin sensitization; specific target organ toxicity; reproductive toxicity. For purposes of § 721.72(g)(3), this substance may be toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture or process the substance in any manner or method that results in inhalation exposure. It is a significant new use to use the substance in formulations at concentrations greater than 4%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=12.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11907 Substituted heteromonocycle, polymer with haloalkyl substituted heteromonocycle, dialkyl-alkanediamine, (alkylalkylidene)bis[hydroxy-carbomonocycle] and oxybis[alkanol], reaction products with metal oxide and dialkanolamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted heteromonocycle, polymer with haloalkyl substituted heteromonocycle, dialkyl-alkanediamine, (alkylalkylidene)bis[hydroxy-carbomonocycle] and oxybis[alkanol], reaction products with metal oxide and dialkanolamine (PMN P–21–126) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely destroyed.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=230.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (f) through (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11908 Carbonic acid, diphenyl ester, polymer with 1,4-butanediol and 1,10-decanediol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as carbonic acid, diphenyl ester, polymer with 1,4-butanediol and 1,10-decanediol (PMN P–21–175; CASRN 1615685–41–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely destroyed.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=22.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (f), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11909 3,5,8-Trioxa-4-silaalkanoic acid, 4-ethenyl-4-(2-alkoxy-1-alkyl-2-oxoethoxy)-2,6-dialkyl-7-oxo-, alkyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 3,5,8-trioxa-4-silaalkanoic acid, 4-ethenyl-4-(2-alkoxy-1-alkyl-2-oxoethoxy)-2,6-dialkyl-7-oxo-, alkyl ester (PMN P–22–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or destroyed.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: eye irritation; reproductive toxicity; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to process for use or use the substance other than as a crosslinker in formulating general purpose sealants and adhesives. It is a significant new use to process for use or use the substance in consumer products other than in the form of a paste. It is a significant new use to process for use or use the substance where the concentration of the substance exceeds 6% by weight in consumer products. It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11910 .beta.-N-Acetylhexosaminidase (expressed in genetically modified Bacillus licheniformis strain ATJI0138).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as .beta.-N-acetylhexosaminidase (expressed in genetically modified Bacillus licheniformis strain ATJI0138) (PMN P–22–8; CASRN 9012–33–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; respiratory sensitization; skin sensitization; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure. It is a significant new use to process the substance to greater than 1% in formulation for use in a consumer product.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11911 Alkanes, C4–9-branched and linear.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as alkanes, C4–9-branched and linear (PMN P–22–9; CASRN 2577172–51–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been incorporated into a fuel or refined or blended into other chemical or fuel formulations.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 0.1%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance other than as a fuel, a refinery feedstock, a chemical feedstock, or a fuel blending additive or component.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (f), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11912 Amino alkanoic acid, N-[3-(trimethoxysilyl)propyl]-, 3-(trimethoxysilyl)propyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as amino alkanoic acid, N-[3-(trimethoxysilyl)propyl]-, 3-(trimethoxysilyl)propyl ester (PMN P–22–10) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1), (3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; serious eye damage; reproductive toxicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that generates inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=80.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11913 2-Pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo, aryl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified

generically as 2-pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo, aryl ester (PMN P–22–13) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (3) and (5). For purposes of § 721.72(g)(1), this substance may cause: eye irritation; skin sensitization; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). It is a significant new use to manufacture, process, or use the substance unless in solid form when using a dust collection system with a capture and control efficient of at least 32%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11914 2-Pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo- (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 2-pyridinecarboxylic acid, 3-halo-4-nitrogen-substituted-5-halo-6-halo- (PMN P–22–15) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1), (3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: eye irritation; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). It is a significant new use to manufacture, process, or use the substance unless in solid form when using a dust collection system with a capture and control efficient of at least 32%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11915 Polyphosphoric acids, esters with heteromonocycle homopolymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyphosphoric acids, esters with heteromonocycle homopolymer (PMN P–22–37) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1), (3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin corrosion; skin irritation; serious eye damage; eye irritation; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to process the substance to greater than 1% in formulation. It is a significant new use to use the substance in a formulation containing the substance at a concentration greater than 1%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=2.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11916 Silica gel, reaction products with alkyl metal salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as silica gel, reaction products with alkyl metal salt (PMN P–22–44) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely destroyed.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: eye irritation; skin irritation; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a) through (c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11917 Graphene nanoplatelets (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as graphene nanoplatelets (PMN P–22–54) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been: (i) Completely reacted or cured; or (ii) Embedded into a permanent solid polymer form that is not intended to undergo further processing, except mechanical processing or physical blending.

(2) The significant new uses are: (i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1), (3) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (v)(3), and (x)(3). It is a significant new use to manufacture the substance other than by import into the United States in the form of a solution (*i.e.,* no domestic manufacture). It is a significant new use to process the substance in any manner that generates inhalation exposure. It is a significant new use to use the substance in an application method where the concentration of the substance in the formulation exceeds the confidential concentration listed in the Order.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11918 Phenoxathiinium, 10-phenyl-, 5-alkyl-2-alkyl-4-(2,4,6-substituted tri-carbopolycycle, hetero-acid)benzenesulfonate (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phenoxathiinium, 10-phenyl-, 5-alkyl-2-alkyl-4-(2,4,6-substituted tri- carbopolycycle, hetero-acid)benzenesulfonate (1:1) (PMN P–22–86) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) and (iii), (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (2)(i) through (iii), (v), (3)(i) and (ii), and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin irritation; serious eye damage; skin sensitization; genetic toxicity; specific

target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution or in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 9 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11919 Heterotrisubstituted-bile acid, 1-(difluorosulfomethyl)-2,2,2-trifluoroethyl ester, ion(1-), (5)-, 5-phenyldibenzothiophenium (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as heterotrisubstituted-bile acid, 1-(difluorosulfomethyl)-2,2,2-trifluoroethyl ester, ion(1-), (5)-, 5-phenyldibenzothiophenium (1:1) (PMN P–22–122) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) and (iii), (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (2)(i) through (iii), (v), (3)(i) and (ii), and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin irritation; serious eye damage; skin sensitization; genetic toxicity; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution or in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 9 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11920 Sulfonium, (alkylsubstitutedphenyl)diphenyl-, salt with 1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkyl trisubstitutedbenzoate (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonium, (alkylsubstitutedphenyl)diphenyl-, salt with 1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkyl trisubstitutedbenzoate (1:1) (PMN P–22–179) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) and (iii), (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (2)(i) through (iii), (v), (3)(i) and (ii), and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin irritation; serious eye damage; skin sensitization; genetic toxicity; carcinogenicity; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution or in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 9 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11921 Dibenzothiophenium, 5-phenyl-, 4-[1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkoxy]-4-oxoalkyl trisubstitutedbenzoate (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as dibenzothiophenium, 5-phenyl-, 4-[1-(heterosubstitutedalkyl)-2,2,2- triheterosubstitutedalkoxy]-4-oxoalkyl trisubstitutedbenzoate (1:1) (PMN P–22–180) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar

manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) and (iii), (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (2)(i) through (iii), (v), (3)(i) and (ii), and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin irritation; serious eye damage; skin sensitization; genetic toxicity; carcinogenicity; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution or in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 9 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11922 .beta.-cyclodextrin, polymer with 2,3,5,6-tetrafluoro-1,4-benzenedicarbonitrile, hydrolyzed, 2-(trimethylammonio)ethyl ethers, chlorides.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as .beta.-cyclodextrin, polymer with 2,3,5,6-tetrafluoro-1,4-benzenedicarbonitrile, hydrolyzed, 2-(trimethylammonio)ethyl ethers, chlorides (PMN P–22–115; CASRN 2683011–63–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been incorporated into an article.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (5), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), and (g)(1) and (5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance with particle size less than 20 microns. It is a significant new use to process for use or use the substance in consumer products except when incorporated into an article.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11923 Substituted heterocyclic onium compound, salt with heteropolysubstitutedalkyl substitutedtricycloalkane carboxylate (1:1), polymer with 1-alkenyl-4-[(alkylcycloalkyl)oxy]carbomonocycle, 5-ethyloctahydro-4,7-methano-1H-inden-5-yl 2-methyl-2-propenoate, hexahydro-5-oxo-2,6-methanofuro[3,2-b]furan-3-yl 2-methyl-2-propenoate and 4-hydroxyphenyl 2-methyl-2-propenoate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted heterocyclic onium compound, salt with heteropolysubstitutedalkyl substitutedtricycloalkane carboxylate (1:1), polymer with 1-alkenyl-4-[(alkylcycloalkyl)oxy]carbomonocycle, 5-ethyloctahydro-4,7-methano-1H-inden-5-yl 2-methyl-2-propenoate, hexahydro-5-oxo-2,6-methanofuro[3,2-b]furan-3-yl 2-methyl-2-propenoate and 4-hydroxyphenyl 2-methyl-2-propenoate (PMN P–22–129) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) and (iii), (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (2)(i) through (iii), (v), (3)(i) and (ii), and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin irritation; serious eye damage; skin sensitization; genetic toxicity; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5

kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11924 Haloalkylfurancarboxaldehyde (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as haloalkylfurancarboxaldehyde (PMN P–22–162) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (destroyed).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), (3) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity; skin irritation; serious eye damage; skin sensitization; genetic toxicity; reproductive toxicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a) through (c), and (o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Disposal.* It is a significant new use to dispose of the substance, or any waste streams containing the substance, other than by hazardous waste incineration achieving at least 99.99% destruction of the substance.

(v) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=540.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

PART 725—REPORTING REQUIREMENTS AND REVIEW PROCESSES FOR MICROORGANISMS

■ 3. The authority citation for part 725 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, 2613, and 2625.

■ 4. Add §§ 725.1082 to subpart M to read as follows:

Subpart M—Significant New Uses for Specific Microorganisms

* * * * *

§ 725.1082 Microorganism expressing enzymes (generic).

(a) *Microorganism and significant new uses subject to reporting.* (1) The genetically-modified microorganism identified generically as microorganism expressing enzymes (MCAN J–23–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) It is a significant new use to manufacture, process, or use the microorganism other than in a fermentation system that meets all of the following conditions:

(A) Enzyme production occurs by submerged fermentation (*i.e.,* for enzyme production, growth of the microorganism occurs beneath the surface of the liquid growth medium); and

(B) Any fermentation of solid plant material or insoluble substrate to which the microorganism fermentation broth is added after the standard industrial fermentation is completed is initiated only after the inactivation of the microorganism as delineated in § 725.422(d).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart L of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 725.950(b)(2) through (4) are applicable to manufacturers and processors of this microorganism.

(2) *Modification or revocation of certain notification requirements.* The provisions of § 725.984 apply to this section.

[FR Doc. 2024–18259 Filed 8–19–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–31; FCC 24–76; FR ID 237188]

Addressing the Homework Gap Through the E-Rate Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) seeks further comment on how to ensure the success of schools and libraries' hotspot lending programs, including through continued collaboration by multiple stakeholders.

DATES: Comments are due on or before October 4, 2024, and reply comments are due on or before November 4, 2024. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact person listed as soon as possible.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments. You may submit comments identified by WC Docket No. 21–31 by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS): *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service.

All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Molly O'Conor, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Molly.Oconor@fcc.gov* or (202) 418–7400. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and government Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order (*Order*) and Further Notice of Proposed Rulemaking (*FNPRM*) in WC Docket No. 21–31; FCC 24–76, adopted July 18, 2024 and released July 29, 2024. The full text of this document is available for public inspection during regular business hours at Commission's headquarters 45 L Street NE, Washington, DC 20554 or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-24-76A1.pdf.*

Availability of Documents. Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS.

Ex Parte Presentations-Permit-But-Disclose. The proceeding this document initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be available on *https://www.fcc.gov/proposed-rulemakings.*

Synopsis

Introduction

Technology has become an integral part of the modern classroom and receiving an education, especially in the recent past, and the barrier to accessing such technology puts individuals at a significant disadvantage to their peers and often prevents educators from being able to teach. In the *Order,* the Commission takes steps to modernize the E-Rate program to meet the evolving needs of schools and libraries around the country by allowing for the distribution of Wi-Fi hotspots and services to students, school staff, and library patrons for off-premises use.

Since its inception more than 25 years ago, the Commission's E-Rate program has supported high-speed, affordable internet services to and within school and library buildings, and has been instrumental in providing students, school staff, and library patrons with access to the essential broadband services that are required for next-generation learning. Recognizing the Commission's responsibility to ensure the E-Rate program evolves with the educational needs of students and library patrons, the Commission has frequently modernized the program to reflect the changes in education and technology, including by providing more equitable access to funding for Wi-Fi networks in schools and libraries. Recently the Commission has seen significant advances in technology that have changed not only the way schools and libraries provide educational resources, but also the way students, school staff, and library patrons access such resources. In particular, an internet connection has become an essential requirement for learners to access tasks that are vital to obtaining an education, including homework assignments, online classes, library materials, continuing education, and career and government applications.

The need for internet connectivity beyond the campus boundaries was further underscored by nationwide school and library closures beginning in 2020 as a result of the COVID–19 pandemic, when most educational activities were unexpectedly forced to shift online overnight. During this time, thanks to the creativity and resourcefulness of schools and libraries around the country, many students, school staff, and library patrons that would have been caught on the wrong side of the digital divide or the ''Homework Gap''—*i.e.,* students unable to fully participate in educational opportunities because they lack broadband connectivity in their homes—were able to obtain a broadband connection provided by their local school or library. Many schools and libraries used funding provided through the congressionally-appropriated Emergency Connectivity Fund (ECF) program to purchase connected devices, Wi-Fi hotspot devices, broadband connections, and other eligible equipment and services for students, school staff, and library patrons in need, to use at a variety of locations, including locations other than schools and libraries, during the pandemic. Notably, schools and libraries found success in establishing ECF-funded Wi-Fi hotspot

lending programs to provide the hotspot equipment and monthly mobile wireless broadband services needed to connect individuals who otherwise lacked the internet access needed to fully participate in remote learning.

Even with schools and libraries reopening and returning to in-person instruction, the need for internet connections outside of the school or library buildings to fully engage in education remains, and schools and libraries are seeking to continue funding these valuable lending programs to keep their students, school staff, and library patrons connected. That is why the Commission adapts the E-Rate program to recognize these needs. Building on its experiences in the ECF program and the comments the Commission received in response to the Notice of Proposed Rulemaking (*NPRM*), 88 FR 85157, December 7, 2023, the Commission adopts a budget mechanism to allow for the equitable distribution of Wi-Fi hotspots and services to students, school staff, and library patrons. These rules are intended to be another step in updating the E-Rate program to reflect the realities of many schools and libraries by lending Wi-Fi hotspots and services through community and school libraries across the country so that students, school staff, and library patrons with the greatest need can be connected and learn without limits. The Commission also adopts the *FNPRM* to seek comment on additional ways to ensure the continued success of such Wi-Fi hotspot lending programs funded through the E-Rate program.

Further Notice of Proposed Rulemaking

In this document, the Commission seeks further comment on how to ensure the success of schools and libraries' hotspot lending programs, including through continued collaboration by multiple stakeholders. In particular, the Commission seeks comment on the most effective means to ensure that limited E-Rate program funds are being used effectively and efficiently, and that Wi-Fi hotspots and services are being used for educational purposes and are not going unused. In the *Order,* the Commission focuses on ensuring distribution of the Wi-Fi hotspots and setting a maximum period of non-usage that will result in a line being terminated. The Commission also relies on program integrity and post-commitment reviews to check compliance with its rules. Now, the Commission seeks to further refine its rules to determine a fair and administratively feasible mechanism to set clear limits on E-Rate support for hotspot devices that have been distributed, but that may have limited periods of non-use, without unfairly burdening both applicants and service providers. The applicant community seeks assurance that schools and libraries do not become the financial guarantors of all service charges for which there was non-usage, while service providers assert that they have no way to control or enforce the use of a hotspot provided by an applicant to a student, staff member, or library patron. For this reason, the Commission has adopted what it finds to be a sensible approach for addressing non-usage by focusing on distribution, prohibiting warehousing, terminating service to lines that go unused for approximately 90 days, and relying on program integrity reviews to check compliance as the commission begin implementing Wi-Fi hotspot and service support. The Commission now seeks further comment on administratively feasible methods to encourage maximal usage of these services and devices.

For instance, the Commission seeks comment on ways applicants could take active steps to ensure that E-Rate-supported Wi-Fi hotspots are being used by the students, school staff, and library patrons to whom they are distributed. The Commission recognizes that even under the best circumstances, there may be students or library patrons who simply do not turn on a device once they have checked it out. In these instances, are there steps the applicant should be required to take in order to decrease the chances that the distributed hotspots go unused by the users? Should schools and libraries be required to have technical support available to teach users how to use the Wi-Fi hotspots or troubleshoot issues that may arise? Should schools and libraries be required to limit the lending period to a short period (*e.g.,* 21 days or less) in order to redistribute hotspots to other students or library patrons that may have both the need and ability to use the hotspot? For longer lending periods, should the Commission imposes a specific period of non-usage (*e.g.,* 30 days) after which schools and libraries must seek the return of the hotspot so the device can be loaned out again to another user who will use the device? The Commission understands that schools and libraries often already do this, but seek comment on whether such policies and processes should be required before reimbursement is permitted and, if so, what the best approaches are for enforcing this requirement. What other steps can schools and libraries take to ensure the E-Rate-funded hotspots and services are being used by students, school staff members, and library patrons? Are there better ways to implement certifications to reduce the chances that the E-Rate program is supporting Wi-Fi hotspots and services during periods of non-use? To the extent the Commission continues to require applicants to have activated and made the Wi-Fi hotspots available, as well as publicized their availability, is certifying to having taken these steps on the FCC Form 486 prior to submitting their or their service provider's request(s) for reimbursement sufficient? Would requiring applicants to certify to having taken these measures on the request for reimbursement form or some other form provide better certainty that these actions have been taken? How else might the Commission ensure that applicants have taken sufficient measures to make effective use of these E-Rate funded hotspots and services? Please include examples from current hotspot lending programs on how non-usage is currently being addressed.

The Commission next seeks comment on ways service providers could take additional actions to reduce the amount of E-Rate funds being spent on Wi-Fi hotspots and services that are not being actively used by the intended users. Should the Commission shorten the period of non-usage from approximately 90 days and require service providers to terminate service when there are 30 days of unused services associated with a particular Wi-Fi hotspot line of service? If not at 60 days, when should notice to the applicant be made and how? Should the Commission require additional steps or documentation before allowing an applicant to restart service on a terminated line? Is there an appropriate amount of time the applicant should be required to wait to restart the service? Consistent with the category two budgets, applicants may file a request to reduce or cancel a funding commitment in order to use that funding in a future funding year of the budget cycle. However, if the applicant has service terminated due to non-usage, should the Commission consider prohibiting them from later reducing their funding commitment to restore the undisbursed funding to their hotspot budget? The Commission also seek comment on other billing paradigms that could make the program more responsive to usage. Should the Commission consider requiring alternative billing methods, such as usage-based pricing models, for Wi-Fi hotspot service supported by the E-Rate program? In effect, this would allow reimbursement from the E-Rate program

only for the service that was used, but such an approach would present new difficulties in determining the amount being requested during the FCC Form 471 application. If the Commission uses this approach, should the Commission remove the funding cap for recurring service adopted in the *Order*? Why or why not?

While the Commission is requiring that service providers provide usage reports to applicants at least once per billing cycle, the Commission also seeks comment on whether it should require submission of data usage reports during the invoicing process. For example, should service providers provide the Universal Service Administrative Company (USAC) with reports when an applicant is using fewer than 25% (or some other threshold) of the service lines? Recognizing that the format for these data submissions may also be important to preventing waste and improving program integrity, what structure should data usage reports have and what format should they be provided in? Are there ways to make such data usage reports easier for applicants, and in particular small applicants without dedicated staff for a hotspot lending program, to quickly identify the hotspot devices and services that are going unused? Would it make sense to have the reports identify the number of lines that went unused during a particular billing cycle and reduce the reimbursement for each unused line to a nominal amount, such as $3, that would pay for the continued access to the network that went unused? Similarly, would additional structure be needed for the applicant asset inventories to better match the data usage reports and would that have value? What steps should the Commission take to make sure the information provided does not include personally identifiable information or other sensitive information? Should there be a data usage threshold higher than zero to consider a line used, and if so, what would that threshold be? Should service providers be required to offer a simple way to remotely discontinue and reestablish lines when requested by the applicant? Some libraries reported already having such a mechanism to stop service to a specific device if it is not being used; does the size of the school or library impact the feasibility of implementing such a mechanism for all of the E-Rate funded Wi-Fi hotspots and services in circulation? Why or why not? The Commission also seeks comment on the experiences of schools and libraries being able to discontinue and reestablish lines of services when they request to do so from their service provider. Are different levels of service needed depending on the school or library size? Are there provisions regarding non-usage that could be included in a contract between a service provider and an applicant to help address these concerns in a manner that balances the responsibility between the service provider and applicant? Are there times that an early termination fee for lost or broken hotspot devices should be permitted to ensure that service providers are not left responsible for the cost of a broken hotspot?

The Commission seeks comment on these approaches and whether they would benefit the E-Rate program and reduce the amount of funding spent on Wi-Fi hotspots and services during periods of non-use. To the extent applicants and service providers believe burdens would increase under any of these scenarios, the Commission seeks detailed information on the potential costs and benefits. What other steps could be taken to reduce that amount of E-Rate funding disbursed for Wi-Fi hotspots and services during periods of non-use? Are there other practices the Commission should adopt to achieve these goals? For instance, should the E-Rate program reduce and limit the number of service lines or the quantity of hotspot devices that can be requested in future funding years based on the applicant's prior funding year data on non-usage? Would this incentivize applicants to better right-size their E-Rate supported hotspot lending program? Why or why not?

Relatedly, the Commission seeks further comment on whether to adopt user access restrictions, such as asking for student credentials, like a school-issued email and password, or more technical limitations on who or which devices may connect to the E-Rate-funded Wi-Fi hotspots. To the extent entities already employ user access restrictions, the Commission encourages commenters to provide specific information about the programs they use, the costs they are paying, and the technical functionalities and/or limitations of such restrictions. In the absence of adopting restrictions, the Commission also seeks comment on best practices for user access restrictions. Have library hotspot lending programs also implemented user access restrictions? If so, do they differ from school credentialing options? For example, is user access for Wi-Fi hotspots based on the patron's library card or other library loaning access mechanism?

Cybersecurity Risk Management. The Commission seeks comment on ways to encourage cybersecurity best practices and risk management for schools, libraries, and service providers offering Wi-Fi hotspots through E-Rate. The Commission adopted the Schools and Libraries Cybersecurity Pilot Program (Pilot Program) in June 2024 to explore whether and how to utilize USF support to improve cybersecurity practices for K–12 schools and libraries. Recognizing the critical needs of schools and libraries to protect their broadband networks and sensitive student, school staff, and library patron data, the Commission seeks comment on how to ensure that using E-Rate support for Wi-Fi hotspots does not introduce additional vulnerabilities or risks to cyberattacks. Specifically, the Commission seeks comment on whether service providers providing Wi-Fi hotspots and service to schools and libraries in the E-Rate program should be required to implement cybersecurity and supply chain risk management plans. Service providers receiving support through the High Cost Enhanced Alternative Connect America Cost Model (Enhanced A–CAM) program are required to develop and submit cybersecurity and supply chain risk management plans to USAC and certify compliance with these requirements. These plans must reflect the latest version of the NIST Framework for Improving Critical Infrastructure Cybersecurity and cybersecurity best practices. Should service providers receiving support for Wi-Fi hotspots be required to meet the same or similar standards? Are these service providers already in the practice of maintaining these or similar plans? Why or why not? Would a certification on the FCC Form 473 (Service Provider Annual Certification) be sufficient to allay concerns over cybersecurity vulnerabilities faced by schools and libraries? What are the risks of allowing third-party Wi-Fi hotspots access to a network? What burdens would resellers or smaller service providers face in complying with such requirements?

OPEN Government Data Act. The Commission also seeks comment about whether information reported to the FCC or to the Administrator pursuant to the requirements adopted in the *Order* relating to data usage reports and asset and service inventories are ''data assets'' potentially subject to the requirements of the OPEN Government Data Act. The OPEN Government Data Act, requires agencies to make ''public data assets'' available under an open license and as ''open Government data assets,'' *i.e.,* in

machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and based on an open standard that is maintained by a standards organization. This requirement is to be implemented ''in accordance with guidance by the Director'' of the Office of Management and Budget.

The Commission tentatively concludes that data usage reports and/or asset and service inventories provided to it or the Administrator do not constitute a ''data asset'' as defined in 44 U.S.C. 352(17). A ''data asset'' is defined as ''a collection of data elements or data sets that may be grouped together,'' and ''data'' as ''recorded information, regardless of form or the media on which the data is recorded.'' Each usage report and asset and service inventory is separate and distinct from one another, and the Commission does not expect that the information contained in the reports and inventories could readily be grouped together in any meaningful way. The Commission tentatively concludes therefore that, in the absence of a standardized collection form, the proposed collection of data usage reports and asset and service inventories would not constitute a ''data asset'' subject to the requirements of the OPEN Government Data Act. The Commission seeks comment on this tentative conclusion.

If, however, the Commission proposed collection of data usage reports and asset and service inventories can be viewed as a ''data asset,'' it seeks comment on the extent to which such information would constitute a ''public data asset'' under the OPEN Government Data Act. A ''public data asset'' is ''a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under [the Freedom of Information Act (FOIA)].'' Thus, the Commission seeks comment on the extent to which the information contained in these reports and inventories would be protected from disclosure under the FOIA or as personally identifiable information. If the information is subject to disclosure under the FOIA, and therefore something the FCC would be required to publish in a machine-readable format, the Commission seeks comment on whether it should also require the information to meet certain requirements to enable that publication. Should the Commission require that the information be submitted in machine-readable and structured format to facilitate data analysis regardless of the extent to which the data may be subject to the OPEN Government Data Act public availability requirement?

Promoting Digital Equity and Inclusion. The Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, the Commission seeks comment on how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

Procedural Matters

Paperwork Reduction Act. This document seeks comment on possible modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Regulatory Flexibility Act. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *FNPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments in the *FNPRM.* The Commission will send a copy of the *FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

The E-Rate program will help fund the off-premises use of Wi-Fi hotspots and services for students, school staff, and library patrons by funding Wi-Fi hotspots and services for schools and libraries to establish lending programs. The primary objective of the *FNPRM* is to seek comments that will help maintain the success of the Wi-Fi hotspots lending programs by ensuring there is usage for educational purposes. In the *FNPRM,* the Commission seeks comments from stakeholders including schools, libraries, and service providers, to come up with an administratively feasible method to encourage maximal usage of the Wi-Fi hotspots and services. The *FNPRM* requests examples on how non-usage is being addressed in current hotspot lending programs. The *FNPRM* invites comments on how to avoid unfairly burdening either applicants or service providers, and asks what steps both can take to reduce non-usage.

For example, in the *FNPRM* the Commission asks how to safeguard Wi-Fi hotspots' usage by asking if schools and libraries should have technical support for users and if they should have a limit on the lending period before redistributing the hotspots. The *FNPRM* further requests comments on usage reports and how schools, libraries, and providers can use the reports to assist in preventing non-usage. The *FNPRM* also asks about certifications to reduce the possibility that E-Rate funds are going to unuse devices and services. Further, the *FNPRM* requests comments on what further actions, providers and schools should take after the discovery of non-usage. Additionally, the *FNPRM* seeks comment on how to ensure that using E-Rate support for Wi-Fi hotspots does not introduce additional vulnerabilities or risks to cyberattacks. The information and comments requested in the *FNPRM* will help strengthen the integrity of the E-Rate program by ensuring usage of Wi-Fi hotspots and services.

The proposed actions are authorized pursuant to sections 1 through 4, 201 through 202, 254, 303(r), and 403 of the Communications Act of 1934, as amended.

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

Small Businesses, Small Organizations, Small Governmental Jurisdictions. The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts) with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 entities fall into the category of ''small governmental jurisdictions.''

Small entities potentially affected by the rules herein are Schools, Libraries, Wired Telecommunications Carriers, All Other Telecommunications, Wireless Telecommunications Carriers (except Satellite), Wireless Telephony, Wireless Carriers and Service Providers, Telecommunications Resellers, Local Resellers, Wired Broadband internet Access Service Providers (Wired ISPs), Wireless Broadband internet Access Service Providers (Wireless ISPs or WISPs), internet Service Providers (Non-Broadband), Wireless Telephony, Vendors of Infrastructure Development or Network Buildout, Telephone Apparatus Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.

The potential rule changes proceeding out of the *FNPRM,* could impose some new or modified reporting, recordkeeping, or other compliance requirements on schools, libraries, service providers, including small entities. The *FNPRM* requests comments on how to prevent non-usage of Wi-Fi hotspots and services funded by the E-Rate program and the comments receive will help determine what reporting, recordkeeping, or other compliance requirements the Commission should adopt to prevent or reduce non-usage. The *FNPRM* specifically seeks comments on data usage reports, and it is possible that schools, libraries, and service providers, including small entities, could have additional requirements related to retaining and producing usage reports and certifications. The *FNPRM* also seeks comments on certifications as a measure to help ensure usage prior to reimbursement. It is also possible that schools, libraries, and service providers, including small entities, could have new requirements related to certifications.

Additionally, the *FNPRM* seeks comments on whether applicants should be required to limit the lending period to a shorter period and this may create more recordkeeping, since an increase in the frequency of redistribution is likely to increase the frequency of recording the inventory and asset requirements that are mandatory for a loaned hotspot and service. The *FNPRM* also seeks comment on whether schools and libraries must have technical support available to teach users how to use the Wi-Fi hotspots, and troubleshoot issues as they arise. For service providers, in addition to possible new requirements with usage reports, including making the reports transparent and easier for applicants and the Commission to identify when hotspots are unused, they may also be required to offer a simple way to remotely discontinue and reestablish lines when requested by applicants, which may create more reporting and recordkeeping requirements. Further, applicants and providers may be required to include provisions regarding non-usage in their contracts to help address these concerns in a manner that balances the burden between the provider and applicant. The *FNPRM* also seeks comment on whether service providers providing Wi-Fi hotspots and service to schools and libraries in the E-Rate program should be required to implement cybersecurity and supply chain risk management plans.

In assessing the cost of compliance for small entities, at this time the Commission cannot quantify the cost of compliance with any of the potential rule changes that may be adopted. Further, the Commission is not in a position to determine whether, if adopted, the matters upon which the *FNPRM* seeks comment will require small entities to hire professionals to comply. The information the Commission receives in comments, including, where requested, cost information, will help it identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from potential changes discussed in the *FNPRM.* The Commission will ensure that any reporting, recordkeeping, or other compliance burdens are outweigh by the benefits of protecting the integrity of the E-Rate program, and by having a successful Wi-Fi hotspot lending program to meet the educational needs of students, school staff, and library patrons.

The RFA requires an agency to describe any significant alternatives that could minimize impacts to small entities that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

In the *FNPRM,* the Commission seeks comment on how to ensure that there is educational usage of the E-Rate supported Wi-Fi hotspots and services. The Commission also requests comments that considers the impact on small entities. For example, the Commission seeks comments on how service providers participating in the E-Rate program for hotspot lending should be required to provide transparent reporting to applicants on data usage

that makes it easy for schools and libraries, and in particular small applicants without dedicated staff for a hotspot lending program, to identify the devices that are going unused. In the *FNPRM,* the Commission considers alternatives by asking if for the E-Rate program, it should consider the requirement of alternative billing methods, such as usage-based pricing models. The *FNPRM* also requests comments on whether service providers should be required to offer a simple way to remotely discontinue and reestablish lines when requested by applicants and if there are different levels of service needed depending on the school or library size.

Further, the *FNPRM* seeks comments on potential costs and benefits of the proposed rule changes. The Commission expects the information received in the comments in response to the *FNPRM* will allow it to more fully consider ways to minimize the economic impact on small entities and explore additional alternatives to improve and simplify opportunities for small entities to participate in the E-Rate program, while also ensuring usage in the E-Rate funded school and library hotspot lending programs.

Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules. None.

Ordering Clauses

Accordingly, it is ordered, that pursuant to the authority contained in sections 1 through 4, 201–202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–202, 254, 303(r), and 403, Further Notice of Proposed Rulemaking *is adopted* effective September 19, 2024.

It is further ordered that the Office of the Secretary *shall send* a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–18123 Filed 8–19–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No.19–310, MB Docket No. 17–105; Report No. 3216; FR ID 238943]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: Petition for Reconsideration (Petition) has been filed in the Commission's proceeding by Larry Walke on behalf of National Association of Broadcasters.

DATES: Oppositions to the Petition must be filed on or before September 4, 2024. Replies to oppositions to the Petition must be filed on or before September 16, 2024.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact John Bat of the Media Bureau, Industry Analysis Division, at (202) 418–7921 or *John.Bat@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3216, released August 12, 2024. The full text of the Petition can be accessed online via the Commission's Electronic Comment Filing System at: *https://apps.fcc.gov/ecfs/.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Amendment of section 73.3556 of the Commission's Rules Regarding Duplication of Programming on Commonly Owned Radio Stations (MB Docket No. 19–310, MB Docket No. 17–105).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–18607 Filed 8–19–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 240626–0177; RTID 0648–XF174]

Endangered and Threatened Wildlife and Plants; Listing Determinations for Ten Species of Giant Clams Under the Endangered Species Act; Public Hearings

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

ACTION: Notification of public hearings and listening sessions.

SUMMARY: We, NMFS, will hold seven public hearings and three listening sessions related to our proposed rule to list five species of giant clams as endangered and five species of giant clams as threatened under the Endangered Species Act (ESA).

DATES: Please see Public Hearings and Listening Sessions in the **SUPPLEMENTARY INFORMATION** section for date information. Comments on the proposed rule (89 FR 60498, July 25, 2024) must be received by October 23, 2024. Comments received after this date may not be accepted.

ADDRESSES: The addresses for the venues of the in-person hearings and listening sessions, and instructions for joining the virtual hearing are provided below.

- *Tutuila Public Hearing #1 and Listening Session:* Rex H. Lee Auditorium, Utulei, Eastern District, American Samoa 96799.
- *Tutuila Public Hearing #2:* Tradewinds Hotel, Tafuna, Western District, American Samoa 96799.
- *Tinian Public Hearing:* Tinian Elementary School, 8th Avenue, San Jose, Tinian, CNMI 96952.
- *Rota Public Hearing:* Department of Commerce, Songsong Village, Rota, CNMI 96951.
- *Guam Public Hearing and Listening Session:* Pacific Islands Club Guam, Pale San Vitores Rd., Tumon, Guam 96913.
- *Saipan Public Hearing and Listening Session:* Crowne Plaza Resort, Coral Tree Ave., Garapan, Saipan, CNMI 96950.
- *Virtual Hearing:* This hearing will be conducted as a Webex meeting. You may join the Webex meeting using a web browser, the Webex desktop app (app installation required), a mobile app on a phone (app installation required),

or audio-only using just a phone call, as specified below.

○ *Join the webinar via this link: https://noaanmfs-meets.webex.com/noaanmfs-meets/j.php?MTID=m62351f6b3e964c7a1b91f6e8bc59a208.*

○ *Webinar number:* 2820 450 2543 Webinar password: rV5ttXEcT77 (78588932 when dialing from a phone or video system).

○ *Join by phone:* +1–415–527–5035 Access code: 282 045 02543.

You may submit comments verbally or in writing at the public hearings, or in writing by any of the following methods:

• *Electronic Submissions:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2017–0029 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* John Rippe, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: You must submit comments by one of the previously described methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period on October 23, 2024, may not be considered. All comments received are a part of the public record and will generally be posted to *https://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: John Rippe, NMFS Office of Protected Resources, at *John.Rippe@noaa.gov* or 301–427–8467.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2024, NOAA Fisheries announced a proposed rule (89 FR 60498) to list five species of giant clams (*Hippopus porcellanus, Tridacna derasa, T. gigas, T. mbalavuana,* and *T. squamosina*) as endangered and one species of giant clam (*H. hippopus*) as threatened under the ESA due to their extinction risk, as assessed under section 4(a)(1) of the ESA. We also proposed to list four additional species of giant clams (*T. crocea, T. maxima, T. noae,* and *T. squamosa*) as threatened under the ESA. They are proposed to be listed due to the similarity of appearance of products derived from these species (*e.g.,* meat, worked shell products, and pearls) to those derived from the six aforementioned species.

In that notification, we proposed to extend all of the ESA section 9 prohibitions to *H. hippopus.* We also proposed to issue a protective regulation under section 4(d) of the ESA to prohibit the import and export of derivative parts and products of *T. crocea, T. maxima, T. noae,* and *T. squamosa* into and from the United States and its Territories.

The proposed rule and other materials prepared in support of this action are available at: *https://www.fisheries.noaa.gov/action/proposed-rule-10-species-giant-clams-under-endangered-species-act.* We are accepting public comments on the proposed rule through a 90-day public comment period, which ends on October 23, 2024 (see **ADDRESSES** for instructions on how to submit a public comment). All comments submitted prior to this date will be considered before finalizing the listing determination.

Public Hearings

Public hearings on the proposed listing determination for 10 species of giant clams will be held on the following dates in the evening hours of the affected jurisdictions (American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), and Guam). Times are given in Eastern Daylight Time (EDT), Chamorro Standard Time (ChST) and Samoa Standard Time (SST). Addresses for the venues of the in-person hearings and instructions for joining the virtual hearing are provided under **ADDRESSES** above.

• *American Samoa, Tutuila #1:* A public hearing is scheduled for Wednesday, September 4, 2024, at the Rex H. Lee Auditorium. Doors will open at 5:30 p.m. SST, the informational meeting will begin at 6 p.m. SST, and the public hearing will begin at 7 p.m. SST.

• *American Samoa, Tutuila #2:* A public hearing is scheduled for Thursday, September 5, 2024, at the Tradewinds Hotel. Doors will open at 5:30 p.m. SST, the informational meeting will begin at 6 p.m. SST, and the public hearing will begin at 7 p.m. SST.

• *CNMI, Tinian:* A public hearing is scheduled for Tuesday, September 10, 2024, at Tinian Elementary School. Doors will open at 5:30 p.m. ChST, the informational meeting will begin at 6 p.m. ChST, and the public hearing will begin at 7 p.m. ChST.

• *CNMI, Rota:* A public hearing is scheduled for Thursday, September 12, 2024, at the Department of Commerce, Rota. Doors will open at 5:30 p.m. ChST, the informational meeting will begin at 6 p.m. ChST, and the public hearing will begin at 7 p.m. ChST.

• *Guam:* A public hearing is scheduled for Tuesday, September 17, 2024, at Pacific Islands Club Guam. Doors will open at 5:30 p.m. ChST, the informational meeting will begin at 6 p.m. ChST, and the public hearing will begin at 7 p.m. ChST.

• *CNMI, Saipan:* A public hearing is scheduled for Thursday, September 19, 2024, at Crowne Plaza Resort. Doors will open at 5:30 p.m. ChST, the informational meeting will begin at 6 p.m. ChST, and the public hearing will begin at 7 p.m. ChST.

• One virtual hearing is scheduled for the following time and date:

○ *Eastern Daylight Time Zone:* the informational meeting will begin on Wednesday, October 2, 2024, at 7 p.m. EDT, and the public hearing will begin at 8 p.m. EDT.

○ *Samoa Standard Time Zone:* the informational meeting will begin on Wednesday, October 2, 2024, at 12 p.m. SST, and the public hearing will begin at 1 p.m. SST.

○ *Chamorro Standard Time Zone:* the informational meeting will begin on Thursday, October 3, 2024, at 9 a.m. ChST, and the public hearing will begin at 10 a.m. ChST.

Six public hearings will be conducted in-person and one hearing will be conducted online as a Webex meeting, as specified in **ADDRESSES** above. The hearings will begin with a brief presentation by NMFS that provides an overview of the proposed ESA listing determination for 10 species of giant clams. After the presentation but before public comments, there will be a question and answer session during which members of the public may ask NMFS staff clarifying questions about the proposed rule. Following the question and answer session, members of the public will have the opportunity to provide oral comments on the record regarding the proposed listing determination. Members of the public will also have the opportunity to submit written comments at the hearings. Written comments may also be submitted at any time during the relevant public comment period as described above (see **DATES** and **ADDRESSES**). All oral comments will be recorded (audio), transcribed, and

added to the public comment record for this proposed rule.

Listening Sessions

In advance of the first public hearing in American Samoa and the public hearings on Guam and Saipan, CNMI, we will hold three listening sessions to bring together resource managers, policymakers, and members of the public to share information about the potential impact of the proposed listing determination in the U.S. Pacific Island Territories from the perspectives of the local community. The listening sessions will be held on the following dates and times. Times are given in Chamorro Standard Time (ChST) and Samoa Standard Time (SST). Addresses for the venues of the listening sessions are provided under **ADDRESSES** above.

- *American Samoa, Tutuila:* A public listening session is scheduled for Wednesday, September 4, 2024, at the Rex H. Lee Auditorium. Doors will open at 12:30 p.m. SST.
- *Guam:* A public listening session is scheduled for Tuesday, September 17, 2024, at Pacific Islands Club Guam. Doors will open at 12:30 p.m. ChST.
- *CNMI, Saipan:* A public listening session is scheduled for Thursday, September 19, 2024, at Crowne Plaza Resort. Doors will open at 12:30 p.m. ChST.

The listening sessions are intended to provide a forum for members of the local community to share information about the potential impact in the U.S. Pacific Island Territories of the proposed ESA listing determination and the additional potential regulatory measures identified in our proposal. Listing decisions must be made solely on the basis of the best available scientific and commercial information regarding a species' status. 50 CFR 424.11(b). We cannot consider public comments on economic or other impacts as part of the listing determinations. However, NMFS is offering separate listening sessions to obtain relevant information about giant clams to assist with analyses under other authorities and to provide more background to local communities regarding the listing process and the ESA generally. Following a brief presentation by NMFS that provides an overview of the proposed ESA listing determination for 10 species of giant clams, participants will have an opportunity to ask clarifying questions, voice concerns about the proposed rule, or share additional information regarding giant clams, which NMFS staff will address to the extent practicable. All discussions that occur during the listening session will be manually recorded in summary notes and will be addressed in the final rule preamble.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: August 14, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2024–18637 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 240813–0218]

RIN 0648–BN03

Pacific Island Fisheries; Amendment 7 to the Fishery Ecosystem Plan for the American Samoa Archipelago; Discontinue Rebuilding Plan for American Samoa Bottomfish and Implement Annual Catch Limits and Accountability Measures for Fishing Years 2024–2026

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend the Fishery Ecosystem Plan for the American Samoa Archipelago (FEP) to discontinue the rebuilding plan for American Samoa bottomfish and to implement single-species annual catch limits (ACL) and accountability measures (AM) for bottomfish in the American Samoa archipelago for fishing years 2024, 2025 and 2026. The action is necessary because new best scientific information indicates the fishery is not overfished or experiencing overfishing, and new ACLs and AMs are warranted. This proposed rule considers the best available scientific, commercial, and other information about the fishery, and would support the long-term sustainability of the fishery.

DATES: NMFS must receive comments by October 4, 2024.

ADDRESSES: A plain language summary of this proposed amendment is available at *https://www.regulations.gov/docket/NOAA-NMFS-2024-0088.* You may submit comments on this document, identified by NOAA–NMFS–2024–0088, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and type NOAA–NMFS–2024–0088 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Sarah Malloy, Deputy Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Pursuant to the National Environmental Policy Act, the Western Pacific Fishery Management Council (Council) and NMFS prepared an environmental assessment (EA) to support this proposed action. The EA is available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Heather Nelson, NMFS PIRO, Sustainable Fisheries Division, 808–725–5179.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the American Samoa bottomfish fishery in the U.S. Exclusive Economic Zone (EEZ, generally 3–200 nautical miles (345 kilometers) from shore) around the American Samoa Archipelago under the FEP and implementing regulations, as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2019 stock assessment for the American Samoa bottomfish fishery indicated that the stock was overfished and experiencing overfishing. The fishery has therefore been managed under a rebuilding plan since 2022 (87 FR 25590, May 5, 2022). However, in September 2023 NMFS determined that none of the stocks in the fishery are overfished and were not overfished in the year in which the 2019 overfished determination was made. Accordingly, the Council and NMFS have proposed discontinuing the rebuilding plan, and

the subject rule would implement new ACLs and AMs to prevent overfishing and provide sustainable management for the fishery consistent with the FEP, the Magnuson-Stevens Act and implementing regulations.

The fishery targets and harvests 11 bottomfish management unit species (BMUS), which includes emperors, snappers, groupers, and jacks. Bottomfish are typically harvested in deep waters, though some species are caught over reefs at shallower depths. The majority (85 percent) of bottomfish habitat is in territorial waters, and the remaining 15 percent is in Federal waters. Fishing for bottomfish primarily occurs using aluminum alia catamarans less than 32 feet (9.7 meters) in length that are outfitted with outboard engines and wooden hand reels that fishermen use for both trolling and bottomfish fishing. There are no permitting or reporting requirements for bottomfish fishing in either territorial waters or Federal waters around American Samoa. The American Samoa Department of Marine and Wildlife Resources collects catch data through voluntary boat-based and shore-based creel survey programs and collects commercial sales data through a mandatory commercial receipt book system in accordance with territorial regulations. The fishing year for the fishery begins on January 1 and ends on December 31.

In June 2023, the NMFS Pacific Islands Fisheries Science Center (PIFSC) completed a benchmark stock assessment for bottomfish in American Samoa, which was the culmination of a 3-year American Samoa bottomfish stock assessment improvement plan. Key improvements in the 2023 assessment compared to the 2019 assessment include identification and correction of issues with fisheries data; incorporation of data through 2021, including historical catch from 1967 to 1985 using older government reports; and use of single-species, age-structured models instead of assessing bottomfish as a multispecies stock complex. Stock projections and corresponding probabilities of overfishing were calculated for 2022–2028 over a range of hypothetical 8-year catches for 9 BMUS: *Aphareus rutilans, Aprion virescens, Caranx lugubris, Etelis coruscans, Lethrinus rubrioperculatus, Lutjanus kasmira, Pristipomoides flavipinnis, P. zonatus, and Variola louti. Etelis carbunculus* and *Pristipomoides filamentosus* were not assessed due to insufficient data. The assessment indicated that none of the American Samoa bottomfish stocks assessed in the 2023 benchmark assessment were overfished or subject to overfishing, and the stock assessment also found that the fishery was neither overfished nor experiencing overfishing in any year from 2017 through the 2021, the final data year in the assessment. That none of the stocks were overfished in the final data year of the previous assessment or since is significant because that is a criterion for discontinuing a rebuilding plan (see 50 CFR 600.310(j)(5)).

On August 23, 2023, PIFSC determined the 2023 benchmark stock assessment to be the best scientific information available, consistent with National Standard 2 of the Magnuson-Stevens Act. On September 20, 2023, NMFS determined that none of the American Samoa BMUS were overfished or experiencing overfishing, and NMFS informed the Council of this determination on September 21, 2023.

Under the proposed action, NMFS would amend the FEP to discontinue the rebuilding plan for American Samoa bottomfish. NMFS must specify ACLs and AMs for each stock and stock complex in an FEP, as recommended by the Council, and must consider the best available scientific, commercial, and other information about the fishery. Therefore, the Council recommended and NMFS proposes to implement single-species ACLs and AMs for each BMUS assessed by the 2023 benchmark stock assessment for fishing years 2024, 2025 and 2026. All recommended ACLs are below the overfishing limit, set at a 50 percent risk of overfishing, and below the allowable biological catch established by the Council's Scientific and Statistical Committee, consistent with National Standard 1 of the Magnuson-Stevens Act. Further, the Council recommended and NMFS proposes to establish indicator species for unassessed *E. carbunculus* and *P. filamentosus.* NMFS would establish *E. coruscans* as an indicator species for E. *carbunculus* and *P. flavipinnis* as an indicator species for *P. filamentosus.* NMFS would not implement separate ACLs for *E. carbunculus* and *P. filamentosus.* Instead, they would be subject to the post-season AM based on catch of the indicator species, as defined at 50 CFR 600.310(d)(2)(ii). NMFS proposes to implement the following ACLs:

TABLE 1—PROPOSED ACLS FOR AMERICAN SAMOA BMUS FOR FISHING YEARS 2024, 2025, AND 2026

Species	Samoan name	Proposed ACL (lb/kg)
Aphareus rutilans	Palu-gutusiliva	8,554/3,880
Aprion virescens	Asoama	4,872/2,210
Caranx lugubris	Tafauli	3,086/1,400
Etelis coruscans	Palu-loa	4,872/2,210
Lethrinus rubrioperculatus	Filoa-paomumu	8,554/3,880
Lutjanus kasmira	Savane	16,645/7,550
Pristipomoides flavipinnis	Palu-sina	2,579/1,170
Pristipomoides zonatus	Palu-ula	1,521/690
Variola louti	Velo	2,205/1,000

After the end of each fishing year, if NMFS and the Council determine that the average catch from the most recent 3-year period exceeds the ACL for any species, NMFS would reduce the ACL for that species in the subsequent year by the amount of overage. Although the ACLs apply to Federal waters, both catch from territorial and Federal waters would be counted towards the ACLs. American Samoa does not currently implement catch limits in territorial waters. As an additional performance measure specified in the FEP, if catches exceed an ACL more than once in a 4-year period, the Council must re-evaluate the ACL process, and adjust the system, as necessary, to improve its performance and effectiveness for that species.

The American Samoa bottomfish fishery is relatively small and primarily non-commercial, but is still of importance to the local economy, and from social, cultural, and food security standpoints. The demand for bottomfish in American Samoa varies depending on the need for fish at community events, and fishermen may switch to bottomfish fishing during periods when target

longline catches or prices are low. Between 2017 and 2019 before the onset of the COVID–19 pandemic and the overfished determination, American Samoa bottomfish fishermen caught an average of 12,499 lb of bottomfish annually and sold an average of 1,239 lb per year, or an annual average of 9.9 percent of their catch. However, responses from a 2021 American Samoa cost-earning survey by PIFSC indicated that bottomfish fishermen sold about 50 percent of their bottomfish catch. Due to the wide range of estimates of percent of the catch sold, potential economic effects are presented based on both estimates.

In 2019, before the onset of the COVID–19 pandemic and its effects on local markets, the average price per pound for bottomfish was $4.24. Since the pandemic has ended, we use this figure as the basis for evaluating economics of the fishery. Adjusted for 2022 dollars, the average adjusted price per pound was $5.09. The total allowable harvest of all BMUS of 52,888 lb (23,990 kg) under the proposed action is more than ten times the amount available under the rebuilding plan. Assuming that the full ACLs for all 9 BMUS were caught and fishermen sold their catch for $5.09 per lb, the total potential catch value under the proposed ACLs would be $269,200, with a commercial value between $26,651 (9.9 percent sold) to $134,600 (50 percent sold) per year.

The use of single-species ACLs prevents overfishing of any individual species and allows the implementation of an AM to mitigate the effects of harvest over the ACL of any individual species. AMs under the current rebuilding plan are designed to rebuild an overfished stock, rather than prevent overfishing of a healthy stock. For this reason, under the current rebuilding plan, NMFS would close Federal waters to fishing if the ACL was reached or if the ACL was projected to be reached. However, in-season AMs in the bottomfish fishery are impractical because real-time, in-season monitoring is not always available due to the limited number of interviews and amount data collected by the creel survey. NMFS does not receive a statistically reliable amount of data to perform catch expansions until late in the fishing year, at which point the ACL may already be exceeded. Therefore, under the proposed action there is not an in-season AM; instead an overage adjustment would be used to mitigate the effects of overfishing if the 3-year average catch for one of the nine assessed species exceeded its ACL. In the 3 most recent years for which single-species catch data is available from the stock assessment (2019–2021), catch did not exceed 62 percent of the proposed ACLs for any of the 9 assessed species. Based on this recent catch history, NMFS does not expect that the fishery will exceed the ACL of any species and require an overage adjustment. If an overage adjustment was needed, it would only apply to species for which catch exceeded the ACL so fishers would be able to continue harvesting other BMUS, providing greater economic opportunity, more fish for use in subsistence or cultural practices, and greater year-to-year consistency in the harvest of the fishery than is currently available under the rebuilding plan. Over time, continued sustainable management of the fishery may lead to minor beneficial effects for each of the BMUS relative to management of the fishery as a multi-species complex. This in turn would positively impact both commercial profit and cultural practices which utilize BMUS.

Overall the fishery is not expected to substantially change the way it fishes with respect to fishing gear, fishing effort, participation, intensity, or area fished, but total catch may increase due to the overall greater amount of BMUS available for harvest under the proposed ACLs. However, if recent catch trends in commercial and non-commercial fisheries continue through 2024–2026, then harvest of the 9 assessed BMUS is not expected to exceed the proposed ACLs, and NMFS does not expect the American Samoa BMUS to be subject to overfishing or become overfished in fishing years 2024–2026.

Public comments are being solicited on the proposed amendment 7 to the FEP through the end of the comment period for the Notice of Availability (NOA); see the NOA published on August 2, 2024 (89 FR 63155). NMFS must receive comments on the NOA by October 1, 2024.

Public comments on the proposed rule must be received by the end of the comment period on the FEP amendment, as published in the NOA, to be considered in the decision to approve, partially approve, or disapprove the FEP amendment.

All comments received by the end of the comment period on the FEP amendment, whether specifically directed to the FEP amendment or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the decision on the FEP amendment.

To be considered, comments must be received by the close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Regulatory Flexibility Act (RFA) Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed rule.

The proposed action would set single-species ACLs for the following nine assessed American Samoa BMUS (with their corresponding Samoan name) for 2024, 2025, and 2026: *Aphareus rutilans*/Palu-gutusiliva (8,554 lb), *Aprion virescens*/Asoama (4,872 lb), *Caranx lugubris*/Tafauli (3,086 lb), *Etelis coruscans*/Palu-loa (4,872 lb), *Lethrinus rubrioperculatus*/Filoa-paomumu (8,554 lb), *Lutjanus kasmira*/Savane (16,645 lb), *Pristipomoides flavipinnis*/Palu-sina (2,579 lb), *P. zonatus*/Palu-ula (1,521 lb), and *Variola louti*/Velo (2,205 lb). The proposed action would also establish *E. coruscans* as an indicator species for *E. carbunculus*/Palu-malau and *P. flavipinnis* as an indicator species for *P. filamentosus*/Palu-ena ena. Separate ACLs and AMs would not be implemented for *E. carbunculus* and *P. filamentosus.* Instead, they would be subject to the post-season AM based on monitoring of catch of the indicator species. Given the limited capability of real time, in-season monitoring, only post-season AMs would apply. After the end of each year, if NMFS and the Council determine that the average catch from the most recent 3-year period exceeds the ACL of a species, NMFS

would reduce that ACL in the subsequent year by the amount of the overage. As an additional performance measure specified in the FEP, if catches exceed an ACL more than once in a 4-year period, the Council must re-evaluate the ACL process, and adjust the system, as necessary, to improve its performance and effectiveness for that species.

The American Samoa bottomfish fishery is primarily a non-commercial fishery with a small number of participants, many of whom also participate in other fisheries such as troll and small-scale longline. The most recent annual Stock Assessment and Fishery Evaluation Report for the American Samoa Archipelago FEP estimated that 9 unique vessels landed BMUS in 2022: four bottomfishing vessels, two mixed bottomfish-troll vessels, and 3 using spearfishing gear (WPRFMC 2023). Between 2017 and 2019, prior to the onset of the pandemic, fishermen sold an average of 9.9 percent of bottomfish catch (commercial landings for 2020 are not considered representative due to the onset of the COVID–19 pandemic and are not available for 2021 and 2022 because of data confidentiality). In 2019, the last full year prior to the pandemic and its effects on markets, the average price per pound was $4.24, which adjusted for 2022 dollars, would be $5.09 (WPRFMC 2023). The demand for bottomfish on American Samoa varies depending on the need for fish at community events, and fishermen may switch to bottomfish fishing during periods when target longline catches or prices are low. Based on creel surveys, fishermen caught 11,399 lb (5,170 kg) of bottomfish in 2019, 7,697 lb (3,491 kg) in 2020, and 2,063 lb (936 kg) in 2021; in 2022, the year in which the rebuilding plan was implemented, fishermen caught 2,583 lb (1,172 kg) of bottomfish.

Under the proposed action, catch would be monitored against the ACL on a single-species basis and enable higher total allowable landings in the bottomfish fishery (52,888 lb) compared to the current rebuilding plan (5,000 lb). The AMs would be applied based on the average catch of each species over the most recent three years. If the fishery were to continue to operate as it has in recent years, the fishery would not likely exceed the proposed ACLs for any single species under the proposed action either in a given year, or over a 3-year average. Average catch of *A. virescens* in 2019–2021 was the closest to its corresponding ACL, at 41 percent of the proposed ACL, followed by *C. lugubris* and *E. coruscans* at 23 percent and 21 percent, respectively. The catch of *A. virescens* did exceed the proposed ACL (4,872 lb/2210 kg) in 2015 (5,628 lb/2,553 kg) and 2016 (6,598 lb/2,993 kg) and the catch of *E. coruscans* exceeded the proposed ACL (4,872 lb/2210 kg) in 2014 (5,088 lb/2308 kg) and 2016 (6,748 lb/3,061 kg). The 3-year average catch for each of these species would also have exceeded the proposed ACL for *A. virescens* in 2016 and 2017 and the proposed ACL for *E. coruscans* in 2016.

If the average 3-year catch were to reach or exceed the ACL for any one species, the post-season AM would be applied only to that species, but the fishery could continue to catch all other BMUS that had not reached their respective proposed ACLs. If fishery participants catch the full amount of bottomfish, the potential revenue earned fleetwide would be $269,200 or $29,911 per participant in a fishery with nine participants, far greater than potential revenue under the current rebuilding plan ($25,450 fleetwide). The actual revenue would likely be much lower, given that recent catch levels are much lower than the proposed ACLs combined with the prevalence for non-commercial use of catch in this fishery.

Under the proposed action, the fishery is not expected to substantially change the way it fishes with respect to fishing gear, fishing effort, participation, or intensity, but may change slightly with respect to total catch and areas fished, with the fishermen who choose to fish in Federal waters benefitting from the removal of the rebuilding plan.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels subject to the proposed action are small entities, *i.e.,* they are engaged in the business of finfish harvesting (NAICS code 114111), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of $11 million. The implementation of this action would not result in significant adverse economic impact to individual vessels.

The proposed action does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small entities (as discussed above), organizations or government jurisdictions. There does not appear to be disproportionate adverse economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed rule will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 665

Accountability measures, American Samoa, Annual catch limits, Bottomfish, Fisheries, Fishing, Pacific Islands.

Dated: August 13, 2024.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for part 665 continues to read as follows:

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

■ 2. Revise § 665.103 to read as follows:

§ 665.103 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person to fish for American Samoa bottomfish MUS or ECS using gear prohibited under § 665.104.

■ 3. Amend § 665.106 by revising paragraphs (a) through (c) and removing paragraphs (d) and (e) to read as follows:

§ 665.106 American Samoa annual catch limits (ACL).

(a) *Annual catch limits (ACL).* In accordance with § 665.4, the ACLs for American Samoa bottomfish MUS during fishing years 2024, 2025 and 2026 are as follows:

TABLE 1 TO PARAGRAPH (a)

Species	Samoan name	ACL (lb)
Aphareus rutilans	Palu-gutusiliva	8,554
Aprion virescens	Asoama	4,872
Caranx lugubris	Tafauli	3,086
Etelis coruscans	Palu-loa	4,872
Lethrinus rubrioperculatus	Filoa-paomumu	8,554
Lutjanus kasmira	Savane	16,645
Pristipomoides flavipinnis	Palu-sina	2,579
Pristipomoides zonatus	Palu-ula	1,521
Variola louti	Velo	2,205

(b) *Post-season accountability measure (AM).* If the average catch of any species in the most recent three years exceeds its specified ACL, the Regional Administrator will make an overage adjustment in a separate rulemaking to reduce the ACL for that species for the subsequent year by the amount of the overage. All ACLs for species for which the three most recent years of catch did not exceed the ACL will remain unchanged.

(c) *Indicator species. E. coruscans* will serve as an indicator species for *E. carbunculus* and *P. flavipinnis* will serve as an indicator species for *P. filamentosus.* There are no separate ACLs and AMs for *E. carbunculus* and *P. filamentosus. E. carbunculus* will be subject to the post-season AM if *E. coruscans* reaches the ACL. *P. filamentosus* will be subject to the post-season AM if *P. flavipinnis* reaches the ACL.

[FR Doc. 2024–18500 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 89, No. 161
Tuesday, August 20, 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

Tribal Advisory Committee

AGENCY: Office of Tribal Relations, USDA.

ACTION: Notice of public, virtual meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the Department of Agriculture and the Federal Advisory Committee Act (FACA), the Office of Tribal Relations is announcing a meeting of the Tribal Advisory Committee. The committee is authorized under the Agriculture Improvement Act of 2018 (the 2018 Farm Bill) and operates in compliance with the FACA. The purpose of the committee is to provide advice and guidance to USDA on matters related to Tribal and Indian affairs.

DATES: A virtual webinar with a call-in option will be held on Thursday, September 5, 2024, from 12:00 p.m. to approximately 7:00 p.m. Eastern Time (ET).

Webinar Participation Information: Registration to attend this meeting, including to provide oral public comments, is available at *https://www.zoomgov.com/webinar/register/WN_nKWFY0ssSdCSlJzKaOG-ig.*

Public Comments: The public may file written comments to the Tribal Advisory Committee by August 29, 2024, via email at *Tribal.Relations@usda.gov.* While other comments will be included in the public record for this meeting, the Committee may not have time to deliberate on comments received at this date during this meeting.

Register for the Meeting: The public is asked to pre-register for the meeting at least 5 business days prior to the meeting. Your pre-registration must state: the names of each person in your group; organization or interest represented; the number of people planning to give oral comments, if any; and whether anyone in your group requires special accommodations. Submit registrations to *https://www.zoomgov.com/webinar/register/WN_nKWFY0ssSdCSlJzKaOG-ig* by August 29, 2024.

FOR FURTHER INFORMATION CONTACT: General information about the committee can also be found at *https://www.usda.gov/tribalrelations/advisory-committee.* Josiah Griffin, Designated Federal Officer, by phone at 202–205–2249 or via email at *Josiah.Griffin@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This meeting will be the third convening of the Tribal Advisory Committee. An agenda and more information for this meeting will be available at *https://www.usda.gov/tribalrelations/advisory-committee.*

The Secretary establishes the Committee pursuant to section 12303 of the Agriculture Improvement Act of 2018 (7 U.S.C. 6921(b)) and will be managed in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. 10. Under the law, the Secretary of Agriculture appointed three members, and the Chair and Ranking Members of the House Committee on Agriculture and the Senate Committees on Indian Affairs and Agriculture, Nutrition, and Forestry appointed the remaining eight members. In addition to providing recommendations to the Secretary, the Tribal Advisory Committee is required to provide a report to the three Congressional Committees listed above.

Register for the Meeting: The public is asked to pre-register for the meeting at least 5 business days prior to the meeting. Your pre-registration must state: the names of each person in your group; organization or interest represented; the number of people planning to give oral comments, if any; and whether anyone in your group requires special accommodations. Submit registrations to *https://www.zoomgov.com/webinar/register/WN_nKWFY0ssSdCSlJzKaOG-ig* by August 29, 2024.

Public Comment: Members of the public are invited to join the Tribal Advisory Committee meeting from 12:00 p.m. to 5:00 p.m. and 6:00 p.m. to 7:00 p.m. Eastern Time in listen only mode. Members of the public who request to give oral comments to the Committee, must arrive by 5:00 p.m. Eastern Time (ET) on September 5, 2024, and will be expected to limit their comments to no more than five (5) minutes per person.

Availability of Materials for the Meeting: All written public comments will be compiled into a binder and available for review at the meeting. Duplicate comments from multiple individuals will appear as one comment, with a notation that multiple copies of the comment were received. Please visit *https://www.usda.gov/tribal relations/advisory-committee* to learn more about the agenda for or reports resulting from this meeting.

Please be advised that anyone calling into the Zoom teleconference system interested to provide public comment will be asked to provide their names, their title, and their tribal or organizational affiliations. Callers can expect to incur charges for calls they initiate over wireless lines, and the USDA will not refund any incurred charges.

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

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the

Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities.

Dated: August 14, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–18610 Filed 8–19–24; 8:45 am]

BILLING CODE 3420–AG–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses for the 2024 Tariff-Rate Import Quota Year

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces a fee of $325 to be charged for the 2025 tariff-rate quota (TRQ) year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles, which are subject to tariff-rate quotas set forth in the Harmonized Tariff Schedule (HTS) of the United States.

DATES: August 20, 2024.

FOR FURTHER INFORMATION CONTACT: Elizabeth Riley, Dairy Import Licensing Program, Foreign Agricultural Service, U.S. Department of Agriculture, at (202) 720–6868; or by email at: *Elizabeth.riley@usda.gov.*

SUPPLEMENTARY INFORMATION: The Dairy Tariff-Rate Quota Import Licensing Regulation promulgated by the Department of Agriculture and codified at 7 CFR 6.20–6.36 provides for the issuance of licenses to import certain dairy articles that are subject to TRQs set forth in the HTS. Those dairy articles may only be entered into the United States at the in-quota TRQ tariff-rates by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The use of such licenses is monitored by the Import Program within the Foreign Agricultural Service, U.S. Department of Agriculture, and U.S. Customs and Border Protection, U.S. Department of Homeland Security.

The regulation at 7 CFR 6.33(a) provides that a fee will be charged for each license issued to a person or firm by the Licensing Authority to defray the Department of Agriculture's costs of administering the licensing system under this regulation.

The regulation at 7 CFR 6.33(a) also provides that the Licensing Authority will announce the annual fee for each license and that such fee will be set out in a notice to be published in the **Federal Register**. Accordingly, this notice sets out the fee for the licenses to be issued for the 2025 calendar year.

The total cost to the Department of Agriculture of administering the licensing system for 2025 has been estimated to be $551,234.00 and the estimated number of licenses expected to be issued is 1,696. Of the total cost, $348,584.00 represents staff and supervisory costs directly related to administering the licensing system, and $202,234.00 represents other miscellaneous costs, including travel, publications, and Automatic Data Processing (ADP) system support.

Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 2025 calendar year, in accordance with 7 CFR 6.33, will be $325 per license.

Daniel R. Williams II,

Acting Deputy Administrator.

[FR Doc. 2024–18574 Filed 8–19–24; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Adjustment of Appendices Under the Dairy Tariff-Rate Quota Import Licensing Regulation

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the transfer of amounts for certain dairy articles from the historical license category (Appendix 1) to the lottery (nonhistorical) license category (Appendix 2) pursuant to the Dairy Tariff-Rate Quota Import Licensing regulations for the 2024 quota year.

DATES: August 20, 2024.

FOR FURTHER INFORMATION CONTACT: Elizabeth Riley, (202) 720–6868, *Elizabeth.riley@usda.gov.*

SUPPLEMENTARY INFORMATION: The Foreign Agricultural Service, under a delegation of authority from the Under Secretary for Trade and Foreign Agricultural Affairs, administers the Dairy Tariff-Rate Import Quota Licensing Regulation codified at 7 CFR 6.20–6.36 that provides for the issuance of licenses to import certain dairy articles under tariff-rate quotas (TRQs) as set forth in the Harmonized Tariff Schedule (HTS) of the United States. These dairy articles may only be entered into the United States at the low-tier tariff by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The Imports Program, Foreign Agricultural Service, U.S. Department of Agriculture, issues these licenses and, in conjunction with U.S. Customs and Border Protection, U.S. Department of Homeland Security, monitors their use.

7 CFR 6.34(a) provides that whenever a historical license (Appendix 1) is permanently surrendered, revoked by the Licensing Authority, or not issued to an applicant pursuant to the provisions of § 6.23, the amount of such license will be transferred to Appendix 2. Section 6.25(b) of the regulations provides that beginning with the 2024 quota year, a historical licensee who has surrendered more than 50% of such historical license in at least three of the past five quota years will have their historical license reduced to the average of their imports over those five years. When issuing historical licenses for the 2024 quota year, FAS used license usage data from 2019–2023 to implement this provision of the regulations. Section 6.34(b) provides that the cumulative annual transfers to Appendix 2 will be published by notice in the **Federal Register**. Accordingly, this document sets forth the revised Appendices in the table below. Although there are no changes to the quantities for designated licenses (Appendix 3 and Appendix 4), those numbers are also included in the table below for completeness.

Daniel R. Williams II,

Acting Deputy Administrator, Foreign Agricultural Service.

ARTICLES SUBJECT TO DAIRY IMPORT LICENSES

[Kilograms] [1]

	Historical licenses (appendix 1) [2]	Lottery licenses (appendix 2) [3]	Sum of appendix 1 & 2 [4]	Designated licenses (Tokyo round, appendix 3) [4]	Designated licenses (Uruguay round, appendix 4) [4]	Total [4]
NON-CHEESE ARTICLES, Notes 6, 7, 8, 12, 14 (Appendix 1 reduction):						
BUTTER (NOTE 6, Commodity Code G)						
(−189,068kg)	4,011,398	2,965,602	6,977,000	.....	.....	6,977,000
EU–27 (−392kg)	53,053	29,046	82,099	.....	.....	.....
New Zealand (−3,611kg)	72,892	77,701	150,593	.....	.....	.....
United Kingdom (−701kg)	6,443	7,619	14,062	.....	.....	.....
Other Countries (−31,559kg)	304	73,631	73,935	.....	.....	.....
Any Country (−152,804kg)	3,878,707	2,777,604	6,656,311	.....	.....	.....
DRIED SKIM MILK (NOTE 7, Commodity Code K)	0	5,261,000	5,261,000	.....	.....	5,261,000
Australia	0	600,076	600,076	.....	.....	.....
Canada	0	219,565	219,565	.....	.....	.....
Any Country	0	4,441,359	4,441,359	.....	.....	.....
DRIED WHOLE MILK (NOTE 8, Commodity Code H)	0	3,321,300	3,321,300	.....	.....	3,321,300
New Zealand	0	3,175	3,175	.....	.....	.....
Any Country	0	3,318,125	3,318,125	.....	.....	.....
DRIED BUTTERMILK/WHEY (NOTE 12, Commodity Code M)	0	224,981	224,981	.....	.....	224,981
Canada	0	161,161	161,161	.....	.....	.....
New Zealand	0	63,820	63,820	.....	.....	.....
BUTTER SUBSTITUTES CONTAINING OVER 45 PERCENT OF BUTTERFAT AND/OR BUTTER OIL (NOTE 14, Commodity Code SU)	0	6,080,500	6,080,500	.....	.....	6,080,500
Any Country	0	6,080,500	6,080,500	.....	.....	.....
Total: Non-Cheese Articles (−189,068kg)	4,011,398	17,853,383	21,864,781	.....	.....	21,864,781
CHEESE ARTICLES (Notes 16, 17, 18, 19, 20, 21, 22, 23, 25):						
CHEESE AND SUBSTITUTES FOR CHEESE (NOTE 16, Commodity Code OT) (−864,266kg)	15,672,293	15,797,438	31,469,731	9,661,128	7,496,000	48,626,859
Argentina	0	7,690	7,690	92,310	.....	100,000
Australia	13,122	528,048	541,170	758,830	1,750,000	3,050,000
Canada (−456,179kg)	425,860	715,140	1,141,000	.....	.....	1,141,000
Costa Rica	0	0	0	.....	1,550,000	1,550,000
EU–27 (not including Portugal) (−219,770kg)	12,346,345	8,929,222	21,275,567	835,707	3,168,576	25,279,850
Portugal	65,838	63,471	129,309	223,691	.....	353,000
Israel	79,696	0	79,696	593,304	.....	673,000
Iceland	29,054	264,946	294,000	29,000	.....	323,000
New Zealand (−30,086kg)	1,284,604	3,530,868	4,815,472	6,506,528	.....	11,322,000
Norway (−80,418kg)	42,442	107,558	150,000	.....	.....	150,000
Switzerland (−76,343kg)	429,537	241,875	671,412	548,588	500,000	1,720,000
Uruguay	0	0	0	.....	250,000	250,000
United Kingdom (−1,470kg)	873,668	989,112	1,862,780	73,170	277,424	2,213,374
Other Countries	82,127	119,508	201,635	.....	.....	201,635
Any Country	0	300,000	300,000	.....	.....	300,000
BLUE-MOLD CHEESE (NOTE 17, Commodity Code B) (−45,175kg)	1,874,481	606,520	2,481,001	.....	430,000	2,911,001
Argentina (−2,000kg)	0	2,000	2,000	.....	.....	2,000
EU–27 (−43,156kg)	1,862,160	596,145	2,458,305	.....	347,078	2,805,383
Chile	0	0	0	.....	80,000	80,000
United Kingdom (−19kg)	12,321	8,374	20,695	.....	2,922	23,617
Other Countries	0	1	1	.....	.....	1
CHEDDAR CHEESE (NOTE 18, Commodity Code C) (−583,828kg)	1,661,914	2,621,942	4,283,856	519,033	7,620,000	12,422,889
Australia (−73,435kg)	794,431	190,068	984,499	215,501	1,250,000	2,450,000
Chile	0	0	0	0	220,000	220,000
EU–27 (−287kg)	11,819	71,718	83,537	0	333,515	417,052
New Zealand (−502,193kg)	758,317	2,038,151	2,796,468	303,532	5,100,000	8,200,000
United Kingdom (−3,251kg)	22,755	156,708	179,463	0	716,485	895,948
Other Countries (−4,662kg)	74,592	65,297	139,889	.....	.....	139,889
Any Country	0	100,000	100,000	.....	.....	100,000
AMERICAN-TYPE CHEESE (NOTE 19, Commodity Code A) (−1,123,751kg)	907	3,164,646	3,165,553	357,003	0	3,522,556
Australia (−744,943kg)	0	880,998	880,998	119,002	.....	1,000,000
EU–27 (−130,632kg)	907	353,093	354,000	.....	.....	354,000
New Zealand (−145,120kg)	0	1,761,999	1,761,999	238,001	.....	2,000,000
Other Countries (−103,056kg)	0	168,556	168,556	.....	.....	168,556
EDAM AND GOUDA CHEESE (NOTE 20, Commodity Code D) (−27,925kg)	4,202,581	1,403,821	5,606,402	0	1,210,000	6,816,402
Argentina	105,418	19,582	125,000	.....	110,000	235,000
EU–27 (−23,163kg)	3,986,117	1,302,883	5,289,000	.....	1,100,000	6,389,000
Norway	111,046	55,954	167,000	.....	.....	167,000
Other Countries (−4,762kg)	0	25,402	25,402	.....	.....	25,402
ITALIAN-TYPE CHEESES (NOTE 21, Commodity Code D) (−2,388,273kg)	3,435,989	4,084,558	7,520,547	795,517	5,165,000	13,481,064
Argentina (−2,378,911kg)	1,128,637	2,996,846	4,125,483	367,517	1,890,000	6,383,000

ARTICLES SUBJECT TO DAIRY IMPORT LICENSES—Continued

[Kilograms] [1]

	Historical licenses (appendix 1) [2]	Lottery licenses (appendix 2) [3]	Sum of appendix 1 & 2 [4]	Designated licenses (Tokyo round, appendix 3) [4]	Designated licenses (Uruguay round, appendix 4) [4]	Total [4]
EU–27 (−9,362kg)	2,307,352	1,074,648	3,382,000		2,025,000	5,407,000
Romania	0	0	0		500,000	500,000
Uruguay	0	0	0	428,000	750,000	1,178,000
Other Countries	0	13,064	13,064			13,064
SWISS OR EMMENTHALER CHEESE (NOTE 22, Commodity Code GR) (−1,470,003kg)	1,908,365	4,742,949	6,651,314	823,519	380,000	7,854,833
EU–27 (−410,920kg)	1,744,982	3,407,012	5,151,994	393,006	380,000	5,925,000
Switzerland (−1,059,083kg)	152,223	1,267,264	1,419,487	430,513		1,850,000
Other Countries	11,160	68,673	79,833			79,833
LOWFAT CHEESE (NOTE 23, Commodity Code LF) (−1,173,766kg)	0	4,424,908	4,424,908	1,050,000	0	5,474,908
EU–27 (−1,173,766kg)	0	4,424,907	4,424,907			4,424,907
Israel	0	0	0	50,000		50,000
New Zealand	0	0	0	1,000,000		1,000,000
Other Countries	0	1	1			1
SWISS OR EMMENTHALER CHEESE WITH EYE FORMATION (NOTE 25, Commodity Code SW) (−2,632,699kg)	10,222,564	12,074,767	22,297,331	9,557,945	2,620,000	34,475,276
Argentina	0	9,115	9,115	70,885		80,000
Australia	209,698	0	209,698	290,302		500,000
Canada	0	0	0	70,000		70,000
EU–27 (−1,792,062kg)	7,843,440	8,633,388	16,476,828	4,003,172	2,420,000	22,900,000
Iceland	0	149,999	149,999	150,001		300,000
Israel	0	27,000	27,000			27,000
Norway (−797,816kg)	1,410,057	2,245,253	3,655,310	3,227,690		6,883,000
Switzerland	759,369	924,736	1,684,105	1,745,895	200,000	3,630,000
Other Countries (−42,821kg)	0	85,276	85,276			85,276
Total: CHEESE ARTICLES (−10,309,686kg)	38,979,094	48,921,549	87,900,643	22,764,145	24,921,000	135,585,788
Total: CHEESE & NON-CHEESE	42,990,492	66,774,932	109,765,424	22,764,145	24,921,000	157,450,569

[1] Source of the total TRQs is the U.S. Harmonized Tariff Schedule, Chapter 4, in the corresponding Additional U.S. Notes:
[2] Reduced from 2023 by a total of −10,498,754 kg.
[3] Increased from 2023 by a total of 10,498,754 kg.
[4] No change.

[FR Doc. 2024–18577 Filed 8–19–24; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request a Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection for surveys funded by NASS's many cooperators (Federal agencies, State governments, land grant universities, and other organizations) under a full cost recovery basis. Results from these surveys are important for the cooperators in carrying out their missions, as well as of general interest to the agricultural community. This generic clearance will allow NASS to conduct surveys in a timely manner for the cooperating institutions providing funding for the surveys.

DATES: Comments on this notice must be received by October 21, 2024 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0264, by any of the following methods:

- *Email: omboffi cer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* 855–838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph J. Prusacki, Acting Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 202–720–2707. Copies of this information collection and related instructions can be obtained without charge from Richard Hopper, NASS—OMB Clearance Officer, at 202–720–2206 or at *omboffi cer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Quick Response for Cooperator-Funded Surveys Generic Clearance.

OMB Control Number: 0535–0264.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare, and issue state and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture; and also to conduct the Census of Agriculture. In addition, NASS has many cooperators

from other Federal agencies, State governments, land grant universities, and other organizations that seek NASS's assistance in collecting agricultural data through surveys. Results from these surveys are important for the cooperators in carrying out their missions, as well as of general interest to the agricultural community. Results from these surveys will be made available to the public by NASS or the cooperators who fund them. This generic clearance seeks approval for NASS to conduct a variety of agricultural surveys which will be paid for entirely by cooperators. NASS anticipates the cooperator-funded surveys will cover topics such as: (1) farm management practices, (2) food safety, (3) workplace safety, (4) conservation and land use practices, (5) chemical use management practices, (6) crop quality, (7) agri-tourism, (8) local foods, and (9) other agricultural-related topics. This generic clearance is subject to the regular clearance process at OMB with a 60-day notice and a 30-day notice as part of the 120-day review period. Each individual cooperator-funded survey is then subject to a clearance process with an abbreviated clearance package which justifies the particular content of the survey, describes the sample design, provides the timeline for the survey activities, and the questionnaire. The review period for each individual survey is approximately 45 days, including a 30-day **Federal Register** notice period.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113, 44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, Title III of Public Law 115–435, codified in 44 U.S.C. ch. 35. CIPSEA supports NASS's pledge of confidentiality to all respondents and facilitates the agency's efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA. NASS uses the information only for statistical purposes and publishes only tabulated total data.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 30 minutes per response. Up to 10 individual surveys are included in this generic clearance to be conducted annually (total of 30). The estimated sample size for each of the 30 surveys is approximately 7,500. Each of the 30 surveys are expected to be conducted once annually. The estimated number of responses per respondent is 1. Publicity materials and instruction sheets will account for approximately 5 minutes of additional burden per respondent. Respondents who refuse to complete a survey will be allotted 2 minutes of burden per attempt to collect the data. NASS will conduct the surveys initially by mail and/or internet with phone follow-up for non-response. Face-to-face interviews may also be used in limited situations.

Respondents: Farmers and ranchers, and others associated with the agricultural industry.

Estimated Number of Respondents: 225,000.

Frequency of Responses: Once annually for each individual survey.

Estimated Total Burden on Respondents: The total estimated burden is 112,000 hours.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

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

Signed at Washington, DC, July 30, 2024.

Joseph J. Prusacki,

Acting Associate Administrator.

[FR Doc. 2024–18594 Filed 8–19–24; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS–24–Business–0012]

Notice of Funding Opportunity for the Rural Microentrepreneur Assistance Program for Fiscal Year 2025

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBCS or Agency), an agency of the United States Department of Agriculture (USDA), Rural Development (RD), is making an initial announcement to invite applications for loans and grants under the Rural Microentrepreneur Assistance Program (RMAP) for fiscal year (FY) 2025, subject to the availability of funding. This notice is being issued prior to the passage of a FY 2025 Appropriations Act, which may or may not provide funding for this program, in order to allow applicants sufficient time to leverage financing, prepare and submit their applications, and give the Agency time to process applications within FY 2025. Based on FY 2024 appropriated funding, the Agency estimates that approximately $22,000,000 will be available for FY 2025. Successful applications will be selected by the Agency for funding and subsequently awarded to the extent that funding may ultimately be made available through appropriations. All applicants are responsible for any expenses incurred in developing their applications or any costs incurred prior to the obligation date.

DATES: The deadlines for completed applications to be received in the RD State Office for quarterly funding competitions are no later than 11:59 p.m. Eastern Time on: First Quarter, September 30, 2024; Second Quarter, December 31, 2024; Third Quarter, March 31, 2025; and Fourth Quarter, June 30, 2025. If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day.

The annual microlender technical assistance grant (for existing Microenterprise Development Organizations (MDOs) with a microentrepreneur revolving loan fund) will be made, non-competitively, based on the microlender's microlending activity and availability of funds. To determine the microlender technical assistance grant awards for FY2025, if available, the Agency will use the microlender's outstanding balance of microloans as of June 30, 2025, to

calculate the eligible grant amount. MDOs that are in compliance with the terms of their loan agreement may apply for this annual grant. The deadline for requesting a technical assistance grant is no later than 4:30 p.m. (Eastern Time) on August 1, 2025.

ADDRESSES: Applications must be submitted electronically to the RD State Office in the State where the project is located. Applicants are encouraged to contact their respective RD State Office for an email contact to submit an electronic application prior to the submission deadline date(s). A list of the RD State Office contacts can be found at: *rd.usda.gov/contact-us/state-offices.* This funding opportunity will be made available for informational purposes on *www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Shamika Johnson at, Program Management Division, Business Programs, Rural Business-Cooperative Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 3226, Room 5160–S, Washington, DC 20250–3226, or call (202) 720–1400. For further information on this notice, please contact the RD State Office in the State where the project is located. A list of RD State Office contacts is provided at the following link: *rd.usda.gov/contact-us/state-offices.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Business-Cooperative Service (RBCS).

Funding Opportunity Title: Rural Microentrepreneur Assistance Program (RMAP).

Announcement Type: Notice of Funding Opportunity (NOFO).

Funding Opportunity Number: RD–RBCS–25–RMAP.

Assistance Listing: 10.870.

Dates: The deadlines for completed applications to be received in the RD State Office for quarterly funding competitions are no later than 11:59 p.m. Eastern Time on: First Quarter, September 30, 2024; Second Quarter, December 31, 2024; Third Quarter, March 31, 2025, and Fourth Quarter, June 30, 2025.

Rural Development Key Priorities: The Agency encourages applicants to consider projects that will advance the following key priorities (more details available at *www.rd.usda.gov/priority-points*):

- Assisting rural communities recover economically through more and better market opportunities and through improved infrastructure;
- Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

A. Program Description

1. *Purpose of the Program.* The purpose of RMAP is to support the development and ongoing success of rural microentrepreneurs and microenterprises, each as defined in 7 CFR 4280.302. RMAP provides the following types of support: loan only, combination loan and technical assistance grant, and subsequent technical assistance grants to microenterprise development organizations (MDOs). Loan funds are used by the MDO to establish or recapitalize a revolving loan program for making microloans to a rural microentrepreneur business. Grant funds are used by the MDO to provide technical assistance and entrepreneurship training to rural individuals and businesses.

2. *Statutory and Regulatory Authority.* RMAP is authorized by Section 379E of the Consolidated Farm and Rural Development Act (Pub. L. 87–128), as amended, and is codified as 7 U.S.C. 2008s and implemented by 7 CFR part 4280, subpart D.

3. *Definitions.* The definitions applicable to this notice are published at 7 CFR 4280.302.

4. *Application Awards.* The Agency will review, evaluate, and score applications received in response to this notice based on the provisions found in 7 CFR part 4280, subpart D, and as indicated in this notice. Awards under RMAP will be made using the application scoring criteria contained in 7 CFR 4280.316 and this notice. The Agency advises all interested parties that the applicant bears the burden in preparing and submitting an application in response to this notice regardless of whether or not funding is appropriated for this program in FY 2025.

B. Federal Award Information

Type of Award: Loans and/or Grants.

Fiscal Year Funds: FY 2025.

Available Funds: Dependent upon FY 2025 appropriations. Funding is anticipated to be approximately $22,000,000 based on FY 2024 amounts. RBCS may at its discretion, increase the total level of funding available in this funding round from any available source provided the awards meet the requirements of the statute which made the funding available to the Agency.

Award Amounts: The Agency anticipates the following maximum amounts per award: Loans—$500,000; Grants—$100,000.

Anticipated Award Dates:

(a) *Regular Funding:* First Quarter—September 30, 2024, Second Quarter—December 31, 2024, Third Quarter—March 31, 2025, Fourth Quarter—June 30, 2025.

(b) *Subsequent Annual Microlender Technical Assistance Grants:* August 15, 2025

Performance Period: Subsequent Annual Microlender Technical Assistance Grants September 30, 2025 to June 30, 2026

Renewal or Supplemental Awards: Unless withdrawn by the applicant, completed applications that receive a score of at least 60 (7 CFR 4280.310(c)) but have not yet been funded, will be retained by the Agency for consideration in subsequent reviews through a total of four consecutive quarterly reviews. Applications that remain unfunded after four quarterly reviews, including the initial quarter in which the application was competed, will not be considered further for an award.

Type of Assistance Instrument: Direct Loan, Financial Assistance Agreement

C. Eligibility Information

1. *Eligible Applicants.* Eligible applicants are domestic organizations that are non-profit entities, Indian Tribes (25 U.S.C. 5304(e)) or public institutions of higher education. Eligible applicants must provide training and technical assistance, make microloans, facilitate access to capital, or have an effective plan or program to deliver such services. The applicant must meet the eligibility requirements in 7 CFR 4280.310 and must not be delinquent on any Federal debt or otherwise disqualified from participation in this program to be eligible to apply. The Agency will check the Do Not Pay portal to determine if the applicant has been debarred or suspended at the time of application and also prior to funding any grant award. All other restrictions in this notice will apply.

2. *Cost Sharing or Matching.* The cost share requirement shall be met by the microlender in accordance with the requirements specified in 7 CFR 4280.311(d).

The MDO is required to provide a match of not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

3. *Other Eligibility Requirements.* Applications will only be accepted from eligible MDOs. Applications will not be

considered for funding if they do not provide sufficient information to determine eligibility or are otherwise not suitable for evaluation. Such applications will be withdrawn and not considered for funding.

D. Application and Submission Information

1. *Address to Request Application Package.* For further information, entities wishing to apply for assistance should contact the RD State Office as identified in the **ADDRESSES** section of this notice to obtain an electronic copy of the application package.

An MDO may submit an initial application for a loan with a microlender technical assistance grant, or an initial or subsequent loan-only (without a microlender technical assistance grant). Loan applications must be submitted electronically to the RD State Office where the project is located and must be organized in the same order set forth in 7 CFR 4280.315. Applicants are strongly encouraged to contact their respective RD State Office for an email contact to submit an electronic application prior to the submission deadline date(s).

2. *Content and Form of Application Submission.* An application must contain all of the required elements outlined in 7 CFR 4280.315 and in this notice. Each application must address the applicable scoring criteria presented in 7 CFR 4280.316 for the type of funding being requested.

For entities applying for program loan funds to become an RMAP microlender only, the following items are also required: (1) Form RD 1910–11, ''Applicant Certification Federal Collection Policies for Consumer or Commercial Debts;'' available at *https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1910-11.PDF;* (2) Demonstration that the applicant is eligible to apply to participate in this program; and (3) Certification by the applicant that it cannot obtain sufficient credit elsewhere to fund the activities called for under this program with similar rates and terms.

Current MDO entities may be eligible for subsequent annual microlender technical assistance grants that are awarded subject to funding availability and determined non-competitively based on Agency appropriations for the fiscal year. The MDO must submit a prescribed worksheet, listing the outstanding balance of their microloans and unexpended grant funds as of June 30, 2025, and a letter certifying that their organization still meets all the requirements set forth in 7 CFR part 4280, subpart D, and that no significant changes have occurred within the last year that would affect its ability to carry out the MDO functions. In addition, all MDOs who request Subsequent Annual Microlender Technical Assistance Grants must complete their reporting into the Lenders Interactive Network Connection (LINC) for the Federal fiscal quarter ending June 30, 2025 which will verify the outstanding balance of their microloans as stated in their request for grant funds. The deadline for reporting into LINC and requesting a technical assistance grant is no later than 4:30 p.m. (Eastern Time) on August 1, 2025.

3. *System for Award Management and Unique Entity Identifier.*

(a) At the time of application, each applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR part 25. In order to register in SAM, entities will be required to obtain a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at *https://sam.gov/content/entity-registration.*

(b) Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicant must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

(d) Applicants must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110.

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. *Submission Dates and Times.* Competitions for the available funds will be made quarterly for applications that are received no later than 11:59 p.m. Eastern Time on: First Quarter, September 30, 2024; Second Quarter, December 31, 2024; Third Quarter, March 31, 2025; and Fourth Quarter, June 30, 2025. The deadline for requesting a technical assistant grant is no later than 4:30 p.m. (Eastern Time) on August 1, 2025.

Applications must be received by the RD State Office by the dates and times as indicated above to compete for available funds in that fiscal quarter. If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day.

The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. RBCS also reserves the right to ask applicants for clarifying information and additional verification of assertions in the application.

5. *Intergovernmental Review.* Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of states that maintain a SPOC, please see the White House website: *https://www.whitehouse.gov/omb/management/office-federal-financial-management/.* If your state has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your RD State Office for consideration as part of your application. If your state has not established a SPOC, you may submit your application directly to the Agency. Applications from Federally recognized Indian Tribes are not subject to this requirement.

6. *Funding Restrictions.* No funds made available under this notice shall be used for ineligible purposes outlined in 7 CFR 4280.313(e).

7. *Other Submission Requirements.* All applications must be submitted as a complete application, in one package.

E. Application Review Information

1. *Criteria.* All eligible and complete applications for new loan and grant funds will be evaluated and scored based on the selection criteria and weights contained in 7 CFR part 4280, subpart D. Failure to address any one of the criteria by the application deadline will result in the application being determined ineligible and the application will not be considered for funding. An application must receive at least 60 points out of 100 possible points in the scoring criteria stated in 7 CFR 4280.316 to be considered for funding in the quarter in which it is scored.

2. *Review and Selection Process.* The RD State Offices will review applications to determine if they are eligible for assistance based on requirements contained in 7 CFR part

4280, subpart D. If determined eligible, the application will be submitted to the National Office, where it will be reviewed and prioritized by ranking each application received in that quarter, from highest to lowest score order. All applications will be funded from the highest to lowest score until funds have been exhausted for each funding cycle. Funding of projects is subject to the MDO's satisfactory submission of the additional items required by that subpart and the USDA RD Letter of Conditions.

F. Federal Award Administration Information

1. *Federal Award Notices.* Successful applicants will receive notification for funding from the RD State Office. Applicants must comply with all applicable statutes and regulations before the award will be approved. Provided the application and eligibility requirements have not changed, an application not selected will be reconsidered for three subsequent funding competitions for a total of four competitions. If an application is withdrawn, it can be resubmitted and will be evaluated as a new application. Unsuccessful applications will receive notification by mail, detailing why the application was unsuccessful.

2. *Administrative and National Policy Requirements.*

(a) General. Additional requirements that apply to MDOs selected for this program can be found in 7 CFR part 4280, subpart D. The USDA and the Agency have adopted the USDA grant regulations at 2 CFR chapter IV. This regulation incorporates the latest revisions to the Office of Management and Budget (OMB) regulations 2 CFR part 200 and 2 CFR part 400 for monitoring and servicing RMAP funding.

(b) Geospatial Data. Awardee, and any and all contracts entered into by the awardee with respect to the award, shall ensure that geospatial data required to be collected and provided to the agency, conforms with the requirements of USDA Department Regulation DR–3465–001 and the Geospatial Metadata Standards set forth in DM 3465–001, which can be obtained online at *usda.gov/directives/dr-3465-001andusda.gov/directives/dm-3465-00.*

3. *Reporting.* In addition to any reports required by 2 CFR part 200 and 2 CFR part 400, the MDO must provide reports as required by 7 CFR part 4280, subpart D.

Intermediaries must collect and maintain data provided by Ultimate Recipients defined by 7 CFR 4280.3 on race, sex, and national origin and must also ensure that Ultimate Recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

The applicant and the Ultimate Recipients must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.

G. Federal Awarding Agency Contact(s)

For general questions about this notice, please contact the RD State Office as provided in the **ADDRESSES** section of this notice.

H. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements associated with RMAP, as covered in this notice, have been approved by OMB under OMB Control Number 0570–0062.

2. *National Environmental Policy Act.* All recipients under this notice are subject to the requirements of 7 CFR part 1970. However, awards for technical assistance and training under this notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation. RBCS will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist RBCS with this determination.

3. *Federal Funding Accountability and Transparency Act.* All applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI number as stated in Section D.3 of this notice.

4. *Civil Rights Act.* All grants made under this notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964) and Section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

5. *Equal Opportunity for Religious Organizations.*

(a) Faith-based organizations may apply for this award on the same basis as any other organization, as set forth at, and subject to the protections and requirements of, this part and any applicable constitutional and statutory requirements, including 42 U.S.C. 2000bb *et seq.* USDA will not, in the selection of recipients, discriminate for or against an organization on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization.

(b) A faith-based organization that participates in this program will retain its independence from the Government and may continue to carry out its mission consistent with religious freedom and conscience protections in Federal law. Religious accommodations may also be sought under many of these religious freedom and conscience protection laws.

(c) A faith-based organization may not use direct Federal financial assistance from USDA to support or engage in any explicitly religious activities except when consistent with the Establishment Clause of the First Amendment and any other applicable requirements. An organization receiving Federal financial assistance also may not, in providing services funded by USDA, or in their outreach activities related to such services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

6. *Nondiscrimination Statement.* In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA

(not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, USDA Program Discrimination Complaint Form, which can be obtained online at *https://www.usda.gov/sites/default/files/documents/ad-3027.pdf,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) Fax: (833) 256–1665 or (202) 690–7442; or

(3) Email: program.intake@usda.gov

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Kathryn E. Dirksen Londrigan,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

[FR Doc. 2024–18630 Filed 8–19–24; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Determination of No Shipments in the Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Shanghai Tainai Bearing Co., Ltd. (Tainai) made no shipments of the subject merchandise during the period of review (POR) June 1, 2022, through May 31, 2023.

DATES: Applicable August 20, 2024.

FOR FURTHER INFORMATION CONTACT: Jerry Xiao, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2273.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2024 Commerce published in the **Federal Register** the *Preliminary Results* of the 2022–2023 administrative review [1] of the antidumping duty on tapered toller bearings and parts thereof, finished and unfinished (TRBs) from the People's Republic of China (China).[2] We invited interested parties to comment on the *Preliminary Results*.[3] No interested party submitted comments. Accordingly, we made no changes to the *Preliminary Results.* On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days. The deadline for the final results is now September 6, 2024.[4]

Scope of the Order

The products subject to the order are TRBs. For a complete description of the scope of the order, *see* the *Preliminary Results*.[5]

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that Tainai had no shipments of TRBs during the POR, based on Tainai's timely submitted no-shipment certification and our analysis of information from U.S. Customs and Border Protection (CBP).[6] We received no comments with respect to our preliminary finding. Therefore, for these final results, we continue to determine that Tainai had no shipments of subject merchandise during the POR.

Assessment Rates

Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b). As Commerce continues to find that Tainai did not have any shipments of subject merchandise during the POR, we will instruct CBP to assess any suspended entries of subject merchandise associated with Tainai at the China-wide rate (*i.e.,* 92.84 percent).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed Chinese and non-Chinese exporters for which a review was not requested and that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recently-completed period; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity; and (3) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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 duties prior to liquidation of the relevant entries during the POR.

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[1] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Preliminary Determination of No Shipments and Rescission of Antidumping Duty Administrative Review, in Part; 2022–2023,* 89 FR 35792 (May 2, 2024) (*Preliminary Results*).

[2] *See Tapered Roller Bearings from the People's Republic of China; Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance with Decision Upon Remand,* 55 FR 6669 (February 26, 1990) (*Order*).

[3] *See Preliminary Results.*

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[5] *See Preliminary Results,* 89 FR at 35793.

[6] *See* Tainai's Letter, ''No Shipment Certification,'' dated August 24, 2023; *see also* Memorandum ''No Shipment Inquiry for Shanghai Tainai Bearings Co., Ltd. (A–570–601) during the period 06/01/2022 through 05/31/2023,'' dated October 18, 2023.

Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing 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 14, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024–18657 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–833]

Large Diameter Welded Pipe From the Republic of Türkiye: Final Results of Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that large diameter welded pipe (welded pipe) from the Republic of Türkiye (Türkiye) is not being sold in the United States at less than normal value during the period of review (POR), May 1, 2022, through April 30, 2023.

DATES: Applicable August 20, 2024.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2024, Commerce published the *Preliminary Results* and invited comments from interested parties.[1] No interested party submitted comments on the *Preliminary Results.* Accordingly, the final results remain unchanged from the *Preliminary Results,* and thus, there is no decision memorandum accompanying this notice. On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[2] The deadline for these final results is now October 11, 2024. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [3]

The merchandise covered by the *Order* is welded pipe from Türkiye. For a complete description of the scope of the *Order, see* the *Preliminary Results.*

Rate for Company Not Selected for Individual Examination

The Act and Commerce's regulations do not address the rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair value (LTFV) investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any margins that are zero, *de minimis* (*i.e.,* less than 0.5 percent), or determined entirely on the basis of facts available.''

Where the weighted-average dumping margins for individually examined respondents are zero, *de minimis,* or determined based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use ''any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated . . . .'' For these final results, we continue to calculate a weighted-average dumping margin of zero percent for HDM Celik Boru Sanyai Ve Ticaret A.S (HDM).[4] Therefore, consistent with our practice, we assigned a rate of zero percent to Emek Boru Makine Sanayi ve Ticaret A.S. (Emek Boru), the company not selected for individual examination in this review, in accordance with section 735(c)(5)(B) of the Act.

Final Results of Review

For these final results, we determine that the following estimated weighted-average dumping margin exists for the period May 1, 2022, through April 30, 2023:

Producer/exporter	Weighted-average dumping margin (percent)
HDM Celik Boru Sanyai Ve Ticaret A.S.[5]	0.00
Cimtas Boru Imalatlari ve Ticaret, Ltd	0.00
Emek Boru Makine Sanayi ve Ticaret A.S	0.00

Disclosure

Normally, Commerce will disclose to the parties in a proceeding the calculations performed in connection with the 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 the notice of final results in the **Federal Register**, 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)(1),

[1] *See Large Diameter Welded Pipe from the Republic of Türkiye: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2022–2023,* 89 FR 48386 (June 6, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[3] *See Large Diameter Welded Pipe from the Republic of Turkey: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order,* 84 FR 18799 (May 2, 2019); and *Large Diameter Welded Pipe from the Republic of Turkey: Notice of Court Decision Not in Harmony With Amended Final Determination in the Less-Than-Fair-Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part,* 85 FR 35262 (June 9, 2020) (*Amended Final Determination*) (collectively, *Order*).

[4] We note that we also continue to assign HDM's weighted-average dumping margin to Cimtas Boru Imalatlari ve Ticaret, Ltd. (Cimtas) pursuant to section 772(e) of the Act. For further discussion, *see* the *Preliminary Results* PDM at 4–5.

[5] Commerce initiated this review on both HDM and HDM Spiral Kaynakli Celik Boru A.S. (HDM Spiral). The English name of HDM Spiral is Spirally Welded Steel Pipe Inc.

Commerce has determined, 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. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Commerce calculated a weighted-average dumping margin for HDM of zero percent in this review. Accordingly, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For entries of subject merchandise during the POR produced by HDM for which HDM did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate in the *Amended Final Determination* of the LTFV investigation (*i.e.,* 1.57 percent),[6] if there is no rate for the intermediate company(ies) involved in the transaction.[7]

For both Cimtas and Emek Boru, the company that was not selected for individual examination in this review, we have assigned them the weighted-average dumping margin calculated for HDM (*i.e.,* zero percent). Accordingly, we will instruct CBP to liquidate suspended entries during the POR for these companies without regard to antidumping duties.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be equal to the weighted-average dumping margin established in these final results of this administrative review; (2) for previously investigated or reviewed companies not covered in this review, the cash deposit rate will continue to be the company-specific 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, or the LTFV investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 1.57 percent, the all-others rate established in the *Amended Final Determination*.[8] 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 double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Administrative Protective Order

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

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: August 14, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024–18639 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See Amended Final Determination,* 85 FR at 35263.

[7] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Amended Final Determination,* 85 FR at 35263.

DEPARTMENT OF COMMERCE

International Trade Administration

Civil Nuclear Trade Advisory Committee

AGENCY: International Trade Administration, Industry and Analysis, Department of Commerce.

ACTION: Notice of renewal of the Civil Nuclear Trade Advisory Committee and solicitation of nominations for membership.

SUMMARY: Pursuant to provisions of the Federal Advisory Committee Act, as amended (FACA), the Department of Commerce (Department) announces the renewal of the Civil Nuclear Trade Advisory Committee (CINTAC or Committee) and requests nominations for membership. The purpose of the CINTAC is to provide advice to the Secretary of Commerce (Secretary) regarding the development and administration of programs to expand U.S. exports of civil nuclear goods and services in accordance with applicable U.S. laws and regulations, which will be used by the Department in its role as a member of the Civil Nuclear Trade Working Group of the Trade Promotion Coordinating Committee and of the TeamUSA interagency group to promote U.S. civil nuclear trade.

DATES: Nominations for members must be received on or before 5:00 p.m. Eastern Daylight Time (EDT) on September 6, 2024. After that date, the International Trade Administration (ITA) may continue to accept nominations under this notice to fill any vacancies that may arise.

ADDRESSES: Nominations may be emailed to *jonathan.chesebro@trade.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Chesebro, Senior Nuclear Trade Specialist, Office of Energy & Environmental Industries, U.S. Department of Commerce; telephone: (202) 603–4968; email: *jonathan.chesebro@trade.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The CINTAC was established on August 13, 2008, pursuant to the Department of Commerce authority under 15 U.S.C. 1512 and the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. 1001 *et seq.* The CINTAC functions solely as an advisory committee in accordance with the provisions of FACA. The CINTAC provides advice to the Secretary of Commerce regarding the development and administration of programs to

expand U.S. exports of civil nuclear goods and services which will be used by the Department in its role as a member of the Civil Nuclear Trade Working Group of the Trade Promotion Coordinating Committee and as a member of the TeamUSA interagency group to promote U.S. civil nuclear trade. In particular, the Committee advises on matters including, but not limited to:

(1) Matters concerning trade policy development and negotiations relating to U.S. civil nuclear exports;

(2) The effect of U.S. Government policies, regulations, programs, and foreign government policies and practices on the export of U.S. civil nuclear goods and services;

(3) The competitiveness of U.S. industry and its ability to compete for civil nuclear products and services opportunities in international markets, including specific problems in exporting, and provide specific recommendations regarding U.S. Government and public/private actions to assist civil nuclear companies in expanding their exports;

(4) The identification of priority civil nuclear products and services markets with the potential for high immediate returns for U.S. exports, as well as emerging markets with a longer-term potential for U.S. exports;

(5) Strategies to increase private sector awareness and effective use of U.S. Government export promotion programs, and recommendations on how U.S. Government programs may be more efficiently designed and coordinated;

(6) The development of complementary industry and trade association export promotion programs, including ways for greater and more effective coordination of U.S. Government efforts with private sector organizations' civil nuclear industry export promotion efforts; and

(7) The development of U.S. Government programs to encourage producers of civil nuclear products and services to enter new foreign markets, in connection with which CINTAC may advise on how to gather, disseminate, and promote awareness of information on civil nuclear exports and related trade issues.

II. Membership

CINTAC shall consist of approximately 40 members appointed by the Secretary, in accordance with applicable Department of Commerce guidance and based on their ability to carry out the objectives of the Committee. Members shall represent U.S. entities involved in the export of civil nuclear products and services and reflect the diversity of this sector, including in terms of entities' size, geographic location, and subsector. The Committee shall also represent the diversity of company or organizational roles in the development of civil nuclear energy projects, including, for example, U.S. civil nuclear manufacturing and services companies, U.S. utilities, U.S. trade associations, civil society groups, and other U.S. organizations in the U.S. civil nuclear sector. Members will be selected based on their ability to carry out the objectives of the CINTAC, in accordance with applicable Department of Commerce guidelines. In selecting members, priority will be given to the selection of executives, *i.e.,* Chief Executive Officer, Executive Chairperson, President, or an officer with a comparable level of responsibility. The diverse membership of the Committee assures perspectives reflecting the breadth of the Committee's responsibilities, and, where possible, the Department will also consider the ethnic, racial, gender, sexual orientation, and gender identity diversity and various abilities of the United States population. The Department is committed to achieving diversity in the membership of the Council to the maximum extent permitted by law consistent with the need for balanced industry representation. The Department may seek additional nominations as necessary to attain membership balance and demographic diversity. The Secretary shall appoint to the Committee at least one individual representing each of the following:

a. civil nuclear manufacturing and services companies;

b. small businesses;

c. utilities;

d. trade associations in the civil nuclear sector;

e. research institutions and universities; and

f. private sector organizations or other appropriate civil society groups, such as labor representatives, involved in strengthening the export competitiveness of U.S. civil nuclear products and services.

Members shall serve in a representative capacity, expressing the views and interests of a U.S. entity or organization, as well as its particular subsector; they are, therefore, not Special Government Employees as defined in Title 18 of the United States Code, section 202(a). Each member of the Committee must be a U.S. citizen and must not be registered as a foreign agent under the Foreign Agents Registration Act. No member may represent a U.S. company that is majority owned or controlled by a foreign government entity (or foreign government entities). The Secretary of Commerce invites applications for the CINTAC, consistent with the above membership requirements. To be considered for membership, submit the following information (2 pages maximum) by 5:00 p.m. EDT on September 6, 2024, to the email listed in the **ADRRESSES** section. If you are interested in nominating someone to become a member of the CINTAC, please provide the following information (2 pages maximum):

(1) Name;

(2) Title;

(3) Work phone and email address;

(4) Name of entity to be represented and address including website address;

(5) Short biography of nominee including credentials;

(6) Brief description of the entity and its business activities, size (number of employees and annual sales), and export markets served; and,

(7) An affirmative statement that the applicant and entity to be represented meet all eligibility criteria, specifically addressing that the applicant:

(a) Is a U.S. citizen; and

(b) Is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Please do not send organization brochures or any other information.

All applications should be submitted in PDF or MS Word format via email to Jonathan Chesebro, Lead Nuclear Trade Specialist at the U.S. Department of Commerce's Office of Energy & Environmental Industries at *jonathan.chesebro@trade.gov*.

Nominees selected for appointment to the Committee will be notified by email.

Privacy Act Statement

The collection, maintenance, and disclosure of applicant information is governed by the Privacy Act of 1974 (5 U.S.C. 552a). The Department of Commerce is authorized to collect this information pursuant to authorities that include, but are not limited to, the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. chapter 10. The principal purpose for which the Department will use the information is to assist in choosing members of the Civil Nuclear Trade Advisory Committee (CINTAC). Information received will be maintained in a Privacy Act system of records, COMMERCE/DEPT–11, entitled ''Candidates for Membership, Members, and Former Members of Department of Commerce Advisory Committees.'' A notice describing that system, including a

complete set of routine disclosures, has been published both in the **Federal Register** and on the Department's website at: *https://www.commerce.gov/opog/privacy/SORN/SORN-DEPT-11*. Although providing this information is voluntary, an individual cannot be considered for membership without an application submission, whether self-nominated or nominated by someone else.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2024–18623 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–953]

Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On August 5, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Yama Ribbons and Bows Co., Ltd.* v. *United States,* Court No. 20–00059, sustaining the U.S. Department of Commerce's (Commerce) second remand results pertaining to the administrative review of the countervailing duty order on narrow woven ribbons with woven selvedge (ribbons) from the People's Republic of China (China) covering the period January 1, 2017, through December 31, 2017. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Yama Ribbons and Bows Co., Ltd. (Yama).

DATES: Applicable August 15, 2024.

FOR FURTHER INFORMATION CONTACT: Ajay K. Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0208.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 2020, Commerce published its final results in the 2017 countervailing duty administrative review of ribbons from China.[1] Commerce assigned Yama an overall subsidy rate of 31.87 percent,[2] including a rate based on an adverse facts available (AFA) rate of 10.54 percent for the export buyer's credit program (EBCP).

Yama appealed Commerce's *Final Results.* On December 23, 2022, the CIT sustained, in part, and remanded, in part, the *Final Results,* instructing Commerce to: (1) reconsider its use of the 10.54 percent rate as AFA for the EBCP; and (2) explain why the rate it decided to use is appropriate under section 776(d) of the Tariff Act of 1930, as amended (the Act), given that an unreasonably high AFA rate could unduly prejudice Yama, which fully cooperated during the review.[3]

In its first final remand redetermination, issued in February 2023, Commerce reexamined its application of the countervailing duty AFA hierarchy and provided further explanation of why the 10.54 percent subsidy rate calculated for the preferential policy lending program in *Coated Paper from China* [4] was appropriate to use as AFA for the EBCP.[5] However, on April 10, 2024, the CIT remanded Commerce's rate selection for a second time, ordering that Commerce reconsider its decision to use 10.54 percent subsidy rate from the preferential policy lending program to the coated paper industry in *Coated Paper from China* as the rate selected as AFA for the EBCP.[6]

In its second final remand redetermination issued in June 2024,[7] Commerce reconsidered using the 10.54 percent rate from the preferential lending program in *Coated Paper from China* as AFA for the EBCP, and instead, used the 0.87 percent subsidy rate calculated for the Export Seller's Credit program in *Chloro Isos from China*.[8] Accordingly, Commerce calculated a revised subsidy rate for Yama of 22.20 percent. On August 5, 2024, the CIT sustained Commerce's final redetermination.[9]

Timken Notice

In its decision in *Timken,*[10] as clarified by *Diamond Sawblades,*[11] the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's August 5, 2024, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Yama as follows:

Company	Subsidy rate (percent ad valorem)
Yama Ribbons and Bows Co., Ltd	22.20

Cash Deposit Requirements

Because Yama has a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue

[1] *See Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017,* 85 FR 10653 (February 25, 2020) (*Final Results*).

[2] *Id.,* 85 FR at 10654.

[3] *See Yama Ribbons and Bows Co.,* v. *United States,* 611 F. Supp. 3d 1394, 1403 (CIT 2022).

[4] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet Fed Presses from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 59212 (September 27, 2010) (*Coated Paper from China*), and accompanying Issues and Decision Memorandum (IDM) at 12.

[5] *See Final Results of Redetermination Pursuant to Court Remand, Yama Ribbons and Bows Co.,* v. *United States,* Court No. 20–00059, Slip Op. 22–157 (CIT December 23, 2022), dated February 14, 2023, available at *https://access.trade.gov/public/FinalRemandRedetermination.aspx.*

[6] *See Yama Ribbons and Bows Co.* v. *United States,* Court No. 20–00059, Slip. Op. 24–43 (CIT April 10, 2024).

[7] *See Final Results of Redetermination Pursuant to Court Remand, Yama Ribbons and Bows Co.,* v. *United States,* Court No. 20–00059, Slip Op. 24–43 (CIT April 10, 2024), dated June 10, 2024, available at *https://access.trade.gov/public/FinalRemandRedetermination.aspx.*

[8] *See Countervailing Duty Investigation of Chlorinated Isocyanurates from the People's Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Determination,* 79 FR 10097 (February 24, 2014), and accompanying Preliminary Decision Memorandum at 15, unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012,* 79 FR 56560 (September 22, 2014) (*Chloro Isos from China*), and accompanying IDM at 14.

[9] *See Yama Ribbons and Bows Co.* v. *United States,* Court No. 20–00059, Slip Op. 24–89, dated August 5, 2024.

[10] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[11] *See Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate for Yama.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced and/or exported by Yama that were the subject of Commerce's *Final Results,* and that were entered, or withdrawn from warehouse, for consumption, during the period January 1, 2017, through December 31, 2017. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Yama in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis.* Where an *ad valorem* subsidy rate is zero or *de minimis,*[12] we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: 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. 2024–18589 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–922, A–570–160]

2,4-Dichlorophenoxyacetic Acid From India and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable August 20, 2024.

FOR FURTHER INFORMATION CONTACT: Grant Fuller at (202) 482–6228 (India); Anjali Mehindiratta at (202) 482–9127 (the People's Republic of China (China)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 23, 2024, the U.S. Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of 2,4-Dichlorophenoxyacetic Acid (2,4–D) from India and China.[1] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[2] The deadline for these preliminary determinations is now September 17, 2024.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) the petitioner[3] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On August 7, 2024, the petitioner submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.[4] The petitioners stated that it requests postponement ''because {these} investigation{s} involve{ } complex and novel issues, which require additional time to investigate completely.'' [5]

For the reason stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than November 6, 2024.[6] In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

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. 2024–18590 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Artificial Intelligence Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of Open Meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the National Artificial Intelligence Advisory Committee (NAIAC or Committee) will hold a virtual meeting with briefing sessions. This meeting will be held via web conference on Wednesday, September 4, 2024, from 2:00 p.m.–5:00 p.m. Eastern Time. The primary purpose of this meeting is for NAIAC to receive a briefing by outside panelists on AI in the workforce and a separate briefing from the Law Enforcement Subcommittee on topics related to AI in law enforcement specific to facial recognition technology. The final agenda will be posted on the NIST

[12] *See* 19 CFR 351.106(c)(2).

[1] *See 2,4-Dichlorophenoxyacetic Acid from the People's Republic of China and India: Initiation of Less-Than-Fair-Value Investigations,* 89 FR 34200 (April 30, 2024) (*Initiation Notice*).

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[3] The petitioner is Corteva Agriscience LLC.

[4] *See* Petitioner's Letter, ''Request for Postponement of Preliminary Determination,'' dated August 7, 2024.

[5] *Id.* at 1–2.

[6] This deadline has been tolled by seven days. *See* footnote 2, supra.

website at *https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac.*

DATES: The NAIAC will meet on Wednesday, September 4, 2024, from 2:00 p.m.–5:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. Please note participation instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Gendron, Designated Federal Officer, Information Technology Laboratory, National Institute of Standards and Technology, Telephone: (301) 975–2785, Email address: *cheryl.gendron@nist.gov.* Please direct any inquiries to the committee at *naiac@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.,* notice is hereby given that the NAIAC will meet virtually as set forth in the **DATES** section of this notice. The meeting will be open to the public.

The NAIAC is authorized by Section 5104 of the National Artificial Intelligence Initiative Act of 2020 (Pub. L. 116–283), in accordance with the provisions of the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. 1001 *et seq.* The Committee advises the President and the National Artificial Intelligence Initiative Office on matters related to the National Artificial Intelligence Initiative. Additional information on the NAIAC is available at *ai.gov/naiac/.*

The primary purpose of this meeting is for NAIAC to receive a briefing by outside panelists on AI in the workforce and a separate briefing from the Law Enforcement Subcommittee on topics related to AI in law enforcement specific to facial recognition technology. The final agenda will be posted on the NIST website at *https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac.*

Workforce Briefing: The Workforce Working Group of the NAIAC will host part two of a panel that discusses AI and Just Transitions for American Workers, continuing the discussions from the August 1, 2024, briefing. Invited speakers will explore how the nation can take innovative worker-first approaches to help people enjoy lifelong career success. Ensuring that workers have job experiences that are dignified, career-enhancing, and allow for job mobility is not only an imperative for worker and community wellbeing; it ensures a stronger and more competitive U.S. economy. The panel will explore encouraging a pragmatic, multi-disciplinary, and multi-stakeholder approach to the problem. The invited guests represent organizations, experts, workers, and employers interested in offering a range of perspectives and ideas supporting worker success in an increasingly AI-influenced workforce and economy.

Law Enforcement Use of Facial Recognition Technology Briefing: The Law Enforcement Subcommittee of the NAIAC (NAIAC LE) will brief the NAIAC on AI in law enforcement specific to facial recognition technology. Law enforcement and agencies often need to identify individuals for a wide variety of reasons. Video and photographic evidence obtained from surveillance footage, bystanders, social media, and other sources may provide crucial evidence about potential suspects, victims, witnesses, or community members in distress. Facial recognition technologies (FRTs) can allow law enforcement officers to identify these individuals with greater frequency, speed, and accuracy. Therein lies both the potential and the risk of facial recognition technology. Unrestrained use of FRTs could bring more people unwillingly or unwittingly into the scope of law enforcement investigations, and the system could be misused in a manner that violates constitutional rights or community norms. To prepare for the public briefing and meeting on September 4th, the NAIAC invites public comment on the discussion draft, titled 'Discussing a Framework for the Responsible Use of Facial Recognition Technology in Law Enforcement.' This document will be available via a link on the published agenda before the meeting. This discussion is intended to inform future recommendations from the NAIAC LE to the full NAIAC committee concerning the limited and responsible use of FRTs.

Additional information, including the speaker names, will be available on the agenda and posted online. Members of the public interested in reviewing the agenda in advance and viewing the sessions are encouraged to visit *https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac* for session details and to register to watch virtually. The agenda items may change to accommodate NAIAC business. The final agenda will be posted on the NIST website at *https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac.*

Comments: Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Committee's agenda for this meeting are invited to submit comments in advance of the event. Please note that all comments submitted via email will be treated as public documents and will be made available for public inspection. For consideration prior to this meeting, all comments must be submitted via email with the subject line ''September 4, 2024, NAIAC Public Meeting'' to *naiac@nist.gov* by 5 p.m. Eastern Time, August 23, 2024. NIST will not accept comments accompanied by a request that part or all of the comment be treated confidentially because of its business proprietary nature or for any other reason. Therefore, do not submit confidential business information or otherwise sensitive, protected, or personal information, such as account numbers, Social Security numbers, or names of other individuals. Members of the public may also submit written comments to the NAIAC at any time.

Virtual Meeting Registration Instructions: The meeting will be broadcast via web conference. Requests for special accommodations may be made by emailing *cheryl.gendron@nist.gov.* Registration is required to view the web conference. Instructions on how to register will be made available at *https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac.* Registration will remain open until the conclusion of the meeting.

Tamiko Ford,

NIST Executive Secretariat.

[FR Doc. 2024–18596 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of Public Workshop.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the Smart Connected Systems Division (SCSD) will hold a ''Workshop on Whole Community Preparedness for Smart Cities and Communities'' on August 27, 2024 from 9:00 a.m. to 5:00 p.m. Eastern Time and on August 28, 2024 from 9:00 a.m. to 4:00 p.m. Eastern Time. The primary purpose of this workshop is to define the acceptability, feasibility, and technical requirements for an integrated communications infrastructure to support community disaster planning and response and improve overall community resilience. Workshop outcomes will support SCSD work to define technology applications,

analyses, key performance indicators, and adaptive decision architectures for public safety planning to more effectively respond to and recover from large-scale disasters and emergencies. Workshop participants will help NIST define the acceptability, feasibility, and general communications infrastructure to support community disaster planning and response and improve multi-agency crisis communications among local officials and community leaders during complex events. The workshop agenda will be posted on the NIST website at *https://www.nist.gov/news-events/events/2024/08/workshop-whole-community-public-safety-and-resilience-smart-cities*.

DATES: The NIST SCSD workshop will be held on Tuesday, August 27, 2024 from 9:00 a.m. to 5:00 p.m. Eastern Time and on Wednesday, August 28, 2024 from 9:00 a.m. to 4:00 p.m. Eastern Time. The workshop requires pre-registration and is open to the public. Registration will close on Friday, August 23, 2024 at 11:59 p.m. Eastern Time.

ADDRESSES: The workshop will be held at the George H.W. Bush School of Government and Public Service of Texas A&M University, located at 1620 L St. NW, Washington, DC. The event will be conducted on-site only and will not be accessible virtually.

Please note participation instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael Dunaway, Associate Director of Innovation, Smart Connected Systems Division, NIST, 200 Bureau Drive, Gaithersburg, MD 20899, at *michael.dunaway@nist.gov* or (301) 975–6325. Please direct media inquiries to NIST's Office of Public Affairs at (301) 975–2762.

SUPPLEMENTARY INFORMATION: The goal of the NIST research effort is to define a structure for community safety, security, economic vitality, and overall community resilience through integration of advanced technologies into city operations and infrastructure in smart connected communities. Key to this approach is the inclusion of the resources, capabilities and talent resident in the community, its civil population, and the private sector. Outputs from the workshop will help establish the technical and operational foundation for a ''whole community approach'' to disaster preparedness and resilience. The resulting system will be piloted in select smart cities and communities and adopted as a foundation for public safety within the NIST Smart Cities program. Following the workshop, NIST will publish a conference report that will be made available to the public. The workshop agenda will be posted on the NIST website at *https://www.nist.gov/news-events/events/2024/08/workshop-whole-community-public-safety-and-resilience-smart-cities*.

Registration

All attendees are required to register to be admitted. The registration page may be accessed at *https://events.nist.gov/profile/33194* and requires participant's full name; email address; and organizational affiliation. The workshop is being conducted for in-person attendance only at the Bush School of Government and Public Policy at 1620 L St. NW, Washington, DC. The building has controlled access and will only be open for entry to the workshop from 8:00 a.m. to 9:00 a.m. on August 27–28, 2024.

Registration will remain open through Friday, August 23, 2024 at 11:59 p.m. Eastern Time. Space is limited and registration for all attendees is being made available on a first-come, first-served basis. There is no cost for registration.

Tamiko Ford,

NIST Executive Secretariat.

[FR Doc. 2024–18595 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE205]

Marine Mammals; File No. 28277

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Alaska Fisheries Science Center's Marine Mammal Laboratory, 7600 Sand Point Way NE, Seattle, WA 98115 (Responsible Party: John Bengtson, Ph.D.), has applied in due form for a permit to import, export, and receive marine mammal parts for scientific research.

DATES: Written comments must be received on or before September 19, 2024.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 28277 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 28277 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D., or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant requests a 5-year permit for worldwide import, export, and receipt of parts from up to 50 cetaceans and 2,500 pinnipeds (excluding walrus) annually for scientific research. The objectives of the research are to provide information on marine mammal biology, including stock structure, diet, reproduction, genetics, fatty acid composition, contaminants, and annual levels of bycatch. The foreign and domestic sources of parts may include animals in captivity, legal subsistence harvests, animals killed incidental to legal commercial fisheries, other authorized persons or collections, and animals stranded in foreign countries.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 14, 2024.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–18566 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE207]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint Groundfish Advisory and Recreational Advisory Panels via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Monday, September 9, 2024, at 9 a.m.

ADDRESSES: Webinar registration URL information: *https://nefmc-org.zoom.us/meeting/register/tJIlceChrjIpHN1UpzDkgL8fFWbhJVqY0n9w.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Groundfish and Recreational Advisory Panels will meet to review draft alternatives for incorporating new cod stock units into the fishery management plan and recommend preferred alternatives to the Committee. The Panels will receive an update on development of draft alternatives, including potential recommendations to the Committee regarding Framework Adjustment 69/Specifications and Management Measures. They will receive an update on development of the Atlantic Cod Management Transition Plan transition plan. The Panels will make recommendations to the Groundfish Committee, as appropriate, and discuss other business, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 15, 2024.

Alyssa Weigers,

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

[FR Doc. 2024–18600 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Western Pacific Community Development Program Process

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 April 9, 2024, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Western Pacific Community Development Program Process.

OMB Control Number: 0648–0612.

Form Number(s): None.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 5.

Average Hours per Response: 6.

Total Annual Burden Hours: 30.

Needs and Uses: This request is for an extension of a currently approved information collection. Federal regulations at 50 CFR 665 authorize the Regional Administrator of the National Marine Fisheries Service (NMFS), Pacific Island Region to provide eligible western Pacific communities with access to fisheries that they have traditionally depended upon, but may not have the capabilities to support continued and substantial participation, possibly due to economic, regulatory, or other barriers. To be eligible to participate in the western Pacific community development program, a community must meet the criteria set forth in 50 CFR 665.20, and submit a community development plan that describes the purposes and goals of the plan, the justification for proposed fishing activities, and the degree of involvement by the indigenous community members, including contact information.

This collection of information provides NMFS and the Western Pacific Fishery Management Council with data to determine whether a community that submits a community development plan meets the regulatory requirements for participation in the program, and whether the activities proposed under the plan are consistent with the intent of the program, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws. The information is also important for evaluating potential impacts of the proposed community development plan activities on fish stocks, endangered species, marine mammals, and other components of the affected environment for the purposes of compliance with the National Environmental Policy Act, the Endangered Species Act and other applicable laws.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government.

Frequency: As required.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: 50 CFR 665.20.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0612.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–18609 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE186]

Endangered Species; File No. 28119

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, CA 92037 (Responsible Party: Jeffrey Seminoff, Ph.D.), has applied in due form for a permit to take green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), loggerhead (*Caretta caretta*), and olive ridley (*Lepidochelys olivacea*) sea turtles for purposes of scientific research.

DATES: Written comments must be received on or before September 19, 2024.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 28119 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov*.

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov*. Please include File No. 28119 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov*. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Malcolm Mohead, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq*.) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to continue long-term monitoring and ecological study of hard-shelled sea turtles off the coast of California and in international waters of the Pacific Ocean. Researchers would capture up to 150 green, 30 loggerhead, 10 olive ridley, and 5 hawksbill sea turtles by hand, tangle net, or dip net annually. Researchers would perform the following procedures on sea turtles prior to their release: temporary carapace marking; epibiota removal; photography; measurements and weight; measurement of cloacal temperature and heart rate; flipper and passive integrated transponder tagging; oxytetracycline marking; ultrasonography; biological sampling (blood; skin and scute biopsy; gastric lavage; voided urine and feces; and cloacal, oral, and nasal swabs); and attachment of a biotelemetry device or camera using adhesive or suction-cups. A subset of green sea turtles may receive up to two instruments at a time. The permit is requested for 10 years.

Dated: August 15, 2024.

Amy Sloan,

Acting Division Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–18656 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Technical Information Service

Opportunity To Enter Into a Joint Venture Partnership With the National Technical Information Service for Data Innovation Support; Extension of Deadline To Submit Proposals

AGENCY: National Technical Information Service, Department of Commerce.

ACTION: Notice; extension of deadline to submit proposals.

SUMMARY: The National Technical Information Service (NTIS) is extending the deadline for interested private-sector organizations to submit proposals to enter into a joint venture partnership with NTIS.

DATES: The deadline to submit proposals on the Notice published on August 4, 2021 (86 FR 41960) is extended. NTIS will accept proposals until August 22, 2025.

ADDRESSES: Submit proposals electronically, with the subject line ''Opportunity to Enter into a Joint Venture Partnership with the National Technical Information Service for Data Innovation Support'', by emailing *OpportunityAnnouncement@ntis.gov.*

FOR FURTHER INFORMATION CONTACT: Rosio Harris, 703–605–6617, *OpportunityAnnouncement@ntis.gov.*

SUPPLEMENTARY INFORMATION: On August 4, 2021 (86 FR 41960), NTIS published in the **Federal Register** a Notice seeking proposals from potential Joint Venture Partners (JVPs) that can work with NTIS to assist Federal agencies to leverage innovative ways to collect, connect, access, secure, analyze, disseminate and enable effective and efficient use of data to address unique and complex national data priorities.

Using its joint venture authority, NTIS has established a unique joint venture partnership program that has resulted in a number of innovative data service projects across the Federal government that allow other Federal agencies to address national priorities more efficiently and effectively. In keeping with its mission to accelerate the collection, security, analysis, use and dissemination of data, NTIS continues to search for ways to utilize untapped resources and new capabilities in the private sector. As NTIS focuses on assessing new needs and capabilities that reflect the fast-paced developments in the current environment, it will continue to accept proposals under the criteria announced in the August 4, 2021 Notice (86 FR 41960).

Rosio Harris,

Chief of Staff, National Technical Information Service.

[FR Doc. 2024–18575 Filed 8–19–24; 8:45 am]

BILLING CODE 3510–04–P

COMMODITY FUTURES TRADING COMMISSION

Renewal of the Global Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of renewal.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is publishing this notice to announce the renewal of the Global Markets Advisory Committee (GMAC). The Commission has determined that the renewal of the GMAC is necessary and in the public's interest, and the CFTC has consulted with the General Services Administration's Committee Management Secretariat regarding the GMAC's renewal.

FOR FURTHER INFORMATION CONTACT: Harry Jung, GMAC Designated Federal Officer, at 202–394–3995 or *hjung@cftc.gov.*

SUPPLEMENTARY INFORMATION: The CFTC's advisory committees were created to provide input and make recommendations to the Commission on a variety of regulatory and market issues that affect the integrity and competitiveness of U.S. derivatives markets. The committees facilitate communication between the Commission and U.S. derivatives markets, trading firms, market participants, and end users. The GMAC is one of five CFTC advisory committees. The GMAC's objectives and scope of activities are to provide advice and recommendations on matters of public concern to the exchanges, firms, market users, other market participants, and the Commission regarding the regulatory challenges of a global marketplace, which reflect the increasing interconnectedness of markets and the multinational nature of business. Through its recommendations, the GMAC will help the Commission determine how it can avoid unnecessary regulatory or operational impediments to global business while still preserving core protections for customers and other market participants. The GMAC will also make recommendations for appropriate international standards for regulating futures, swaps, options, and derivatives markets, as well as intermediaries. Additionally, the GMAC will assist the Commission by providing advice concerning the impact on U.S. markets and firms of the Commission's international efforts and the initiatives of foreign regulators and market authorities. The GMAC will also assist with providing advice on methods to improve both domestic and international regulatory structures while continuing to allow U.S. markets and firms to remain competitive in the global market.

The GMAC will operate for two years from the date of renewal unless the Commission directs that the GMAC terminate on an earlier date. A copy of the GMAC renewal charter has been filed with the Commission; the Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; the Library of Congress; and the General Services Administration's Committee Management Secretariat. A copy of the renewal charter will be posted on the CFTC's website at *www.cftc.gov.*

Dated: August 15, 2024.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2024–18660 Filed 8–19–24; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB–2024–0039]

Agency Information Collection Activities; Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) requests the extension of the Office of Management and Budget's (OMB's) approval for an existing information collection titled ''State Official Notification Rule'' approved under OMB Control Number 3170–0019.

DATES: Written comments are encouraged and must be received on or before September 19, 2024 to be assured of consideration.

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. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 435–7278, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: State Official Notification Rule.

OMB Control Number: 3170–0019.

Type of Review: Extension without change of an existing information collection.

Affected Public: State and local governments.

Estimated Number of Respondents: 3.

Estimated Total Annual Burden Hour: 2.

Abstract: Section 1042 of the Dodd–Frank Wall Street Reform and Consumer Protection Act [1] (the Act), gave authority to certain State and U.S. territorial officials to enforce the Act and regulations prescribed thereunder. Section 1042 also requires that the CFPB issue a rule establishing how States are to provide notice to the CFPB before taking action to enforce the Act or (in emergency situations) immediately after taking such an action. In accordance with the requirements of the Act, 12 CFR 1082.1 establishes that notice should be provided at least 10 days before the filing of an action, with certain exceptions, and setting forth a limited set of information which is to be provided with the notice.

Request for Comments: The CFPB published a 60-day **Federal Register** notice on June 4, 2024 (89 FR 47921) under Docket Number: CFPB–2024–0022. The CFPB is publishing this notice and soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2024–18572 Filed 8–19–24; 8:45 am]

BILLING CODE 4810–AM–P

[1] 12 U.S.C. 5552.

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0064]

Submission for OMB Review; Comment Request

AGENCY: Office of Strategic Capital, Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by September 19, 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: Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Office of Strategic Capital Loan Application Part 1 and Part 2; OMB Control Number 0704–OSCL.

Type of Request: New collection.

Application Part 1

Number of Respondents: 50.
Responses per Respondent: 1.
Annual Responses: 50.
Average Burden per Response: 15 hours.
Annual Burden Hours: 750.

Application Part 2

Number of Respondents: 10.
Responses per Respondent: 1.
Annual Responses: 10.
Average Burden per Response: 40 hours.
Annual Burden Hours: 400.

Total

Number of Respondents: 50.
Annual Responses: 60.
Annual Burden Hours: 1,150.

Needs and Uses: This information collection is essential to process applications for loans and loan guarantees under section 903 of the Fiscal Year 24 National Defense Authorization Act (''NDAA'').

Section 903 of the NDAA authorizes the Office of Strategic Capital (''OSC''), established within the ''DOD'' OUSD(R&E), to implement a pilot program to provide direct loans and loan guarantees to eligible entities. These investments are for technologies that fall within specified covered technology categories and have potential applications beyond defense. The eligibility and selection criteria for investments include the extent to which an investment supports U.S. national security or economic interests, the likelihood that direct loans would accelerate the investment, and the creditworthiness of the investment.

To properly underwrite the loans and assure that the loans satisfy these requirements, OSC must collect comprehensive information from entities seeking funding. This is accomplished through a two-part application process, where Application Part 1 gathers basic information for a preliminary assessment of whether the project is eligible, and Application Part 2 uses in-depth financial and technical information on the project's economic viability and economic benefits to confirm eligibility and assess alignment with OSC's strategic program priorities and requirements. OSC will assess Application Part 1 findings and will, on a case-by-case basis, invite potential borrowers to submit an Application Part 2. In certain circumstances, as proscribed by law, OSC will also consult with the Office of Management and Budget on Application Part 1 findings.

OSC must collect Application Part 1 and Application Part 2 from entities seeking funding. OSC will issue a Notice of Funding Availability (''NOFA'') to provide entities with an opportunity to submit applications.

Both Application Part 1 and Part 2 will be accessible to the public for download from the OSC website at *https://www.cto.mil/osc/.* The applicants download the application, which is a fillable PDF document, complete the application, and then email the application, along with any additional required documents, such as financial statements, to a designated OSC email box.

Together, the Applications Part 1 and Part 2 collect various kinds of information about the borrower (or sponsor, as applicable), the project for which the financing is sought, and related issues such as the environmental, economic, national security, and social impacts of the proposed project. The applications also collect information about the ownership and management of the borrower. All the collected information will be reviewed and evaluated by OSC underwriters, technical advisers, and engineers. The financial information will be analyzed through a variety of methods, including, but not limited to, financial analysis tools, to make sure that the borrower has the financial ability to repay the loan. Technical information regarding the underlying commercial project or transaction will be analyzed to make sure that the project relates to a technology within the 31 covered technology categories set forth in NDAA section 903 and to confirm the applicant's engineering representations. In certain cases, environmental engineers will review the underlying project or transaction for compliance with applicable environmental rules and regulations. Overall, the review process aims to determine loan eligibility and ensure alignment with strategic objectives. After complete underwriting due diligence, the information collected is summarized in a Credit Memorandum to be approved by a designated approver. The designated approver for a specific transaction will depend on the size of the transaction, with the largest being approved by the Director of OSC, middle range being approved by a Credit Committee, and the smallest approved by the Director of the OSC loan program. The specific thresholds for each level have not yet been finalized. Once the transaction is approved, the applicant will be notified and OSC will proceed to legally document the transaction.

The burden estimates above are based on each NOFA or application—that is, they assume OSC offers only a single funding opportunity per year. As OSC programs grow, it will offer more funding opportunities each year, thus resulting in greater aggregate annual burdens. It is possible, though unlikely, that any given borrower will submit more than one application in any given year, for the simple reason that the funding opportunities will vary across OSC programs. OSC's best estimate at this time is that OSC could offer approximately five funding opportunities per year, or that applications could be accepted on a rolling basis, resulting in application numbers equivalent to approximately five funding opportunities per year. Therefore, OSC estimates that, once it is fully staffed and operating, the annual

burden numbers set forth above should be multiplied by five.

Affected Public: Businesses within the definition of ''eligible entity'' as defined in 10 United States Code (U.S.C.) 149(e)(3) and operating within the 31 covered technology categories listed in 10 U.S.C. 149(e)(2).

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

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

DOD Clearance Officer: Mr. Reginald Lucas.

Requests for copies of the information collection proposal should be sent to Mr. Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: August 14, 2024.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–18540 Filed 8–19–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps Of Engineers

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 9 a.m., August 19, 2024.

PLACE: On board MISSISSIPPI V at City Front Park, New Madrid, Missouri.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 20, 2024.

PLACE: On board MISSISSIPPI V at Mud Island Park, Memphis, Tennessee.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 21, 2024.

PLACE: On board MISSISSIPPI V at 285 Immigrant Road, Lake Village, Arkansas.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 23, 2024.

PLACE: On board MISSISSIPPI V at Garber Brothers Marine Dock, Berwick, Louisiana.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles A. Camillo, telephone 601–634–7023.

Charles A. Camillo,

Executive Director, Mississippi River Commission.

[FR Doc. 2024–18726 Filed 8–16–24; 11:15 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0076]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; William D. Ford Federal Direct Loan Program (Direct Loan Program) Promissory Notes and Related Forms

AGENCY: Federal Student Aid (FSA), 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 September 19, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–570–8414.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate;

(4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: William D. Ford Federal Direct Loan Program (Direct Loan Program) Promissory Notes and related forms.

OMB Control Number: 1845–0007.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households; Private Sector.

Total Estimated Number of Annual Responses: 9,862,685.

Total Estimated Number of Annual Burden Hours: 4,021,663.

Abstract: The Direct Loan Program promissory notes included in this collection contain information regarding the terms and conditions of the Saving on a Valuable Education (SAVE) repayment plan. However, implementation of the SAVE repayment plan is currently enjoined. The final versions of the promissory notes will reflect the law when it is finalized.

The Direct Subsidized Loan and Direct Unsubsidized Loan Master Promissory Note (Subsidized/Unsubsidized MPN) serves as the means by which an individual agrees to repay a Direct Subsidized Loan and/or Direct Unsubsidized Loan.

The Direct PLUS Loan Master Promissory Note (PLUS Loan MPN) serves as the means by which an individual applies for and agrees to repay a Direct PLUS Loan. If a Direct PLUS Loan applicant is determined to have an adverse credit history, the applicant may qualify for a Direct PLUS Loan by obtaining an endorser who does not have an adverse credit history. The Endorser Addendum serves as the means by which an endorser agrees to repay the Direct PLUS Loan if the borrower does not repay it.

An MPN is a promissory note under which a borrower may receive loans for a single or multiple academic years. The MPN explains the terms and conditions of the loans that are made under the MPN.

The Direct Consolidation Loan Application and Promissory Note (Consolidation Note) serves as the means by which a borrower applies for a Direct Consolidation Loan and promises to repay the loan. It also explains the terms and conditions of the Direct Consolidation Loan. The Consolidation Note Instructions explain to the borrower how to complete the Consolidation Note. The Consolidation Additional Loan Listing Sheet provides additional space for a borrower to list loans that he or she wishes to consolidate. The Consolidation Request to Add Loans serves as the means by which a borrower may add other loans to an existing Direct Consolidation Loan within a specified time period. The Consolidation Loan Verification Certificate serves as the means by which the U.S. Department of Education obtains the information needed to pay off the holders of the loans that the borrower wants to consolidate.

The proposed changes to the forms currently approved under OMB No. 1845–0007 include the following:

—Revised language in the promissory notes where necessary to reflect changes to the terms and conditions of Direct Loans made by final regulations published on November 1, 2022 (87 FR 65904) and July 10, 2023 (88 FR 43820).

—To eliminate duplication of content, we have consolidated the information presented in the current Terms and Conditions and Borrowers Rights and Responsibilities Statement (BRR) into a single Terms and Conditions/BRR section.

—To make it easier for borrowers to complete the promissory notes, we have incorporated the instructions within the body of the promissory notes at the beginning of each section to which the instructions apply.

—To reduce the number of forms in this collection, we have eliminated the Additional Loan Listing Sheet and added extra spaces to list loans in the Consolidation Application/Promissory Note itself.

—To accommodate changes made to the Departments systems used in processing promissory notes, the current data field in all of the promissory notes that asks for the borrowers middle initial has been changed to request the borrowers full middle name, and a new data field asking for any suffix to the borrowers name (*e.g.,* Jr. or Sr.) has been added.

—We have revised the Privacy Act Statement in each of the promissory notes based on the most recent updates to the applicable Systems of Records Notices.

Dated: August 15, 2024.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–18592 Filed 8–19–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Molybdenum-99 Stakeholders Meeting

AGENCY: National Nuclear Security Administration (NNSA), Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces an NNSA Molybdenum-99 (Mo-99) Stakeholders Meeting. This meeting will be held in a hybrid format.

DATES: October 9, 2024, 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held in a hybrid format. Attendees can attend virtually via webcast using Zoom. Instructions for Zoom, as well as any updates to meeting times or agenda, will be posted at *https://mo99.ne.anl.gov/2024stakeholders/.* Attendees can also join in-person at the Crystal City Marriott at Reagan National Airport, located at 1999 Richmond Hwy, Arlington, VA 22202. In-person attendance requires registration and is subject to conference room space limits, as described in the ''Public Participation'' section.

FOR FURTHER INFORMATION CONTACT: Max Postman, Office of Reactor Conversion and Uranium Supply, *OfficeofConversion@nnsa.doe.gov* or (202) 586–9114.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The American Medical Isotopes Production Act of 2012 (AMIPA) (Subtitle F, Title XXXI of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239)), enacted on January 2, 2013, directs the Secretary of Energy to carry out a technology-neutral program to support the domestic production of the medical isotope molybdenum-99 (Mo-99) without the use of highly enriched uranium. As part of this program, AMIPA requires DOE to develop a program plan and annually update the program plan through public workshops. NNSA implements this requirement through the Mo-99 Stakeholders Meeting.

Tentative Agenda

- U.S. Government Mo-99 Program and Regulatory Updates
- Mo-99 Producer Updates
- U.S. Mo-99 Supply Status—Industry Perspectives
- Open Discussion and Q&A

Public Participation

The meeting is open to the public. Seating for in-person attendees may be limited; attendees can request registration for virtual or in-person attendance no later than 4 p.m. ET on Wednesday, October 2, 2024, via a link that will be posted at *https://mo99.ne.anl.gov/2024stakeholders/*. If the number of in-person registrants exceeds the available space, NNSA will inform the affected registrants of the need to attend virtually rather than in-person. NNSA welcomes the attendance of the public at the Mo-99 Stakeholders Meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please include that information in your online registration submission.

Signing Authority

This document of the Department of Energy was signed on August 14, 2024, by Joan Dix, Deputy Director, Office of Reactor Conversion and Uranium Supply, Office of Defense Nuclear Nonproliferation, National Nuclear Security Administration, 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 15, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–18593 Filed 8–19–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24–132–000.

Applicants: CL–Shiloh LLC v. *PJM Interconnection, L.L.C.*

Description: Complaint of *CL–Shiloh LLC* v. *PJM Interconnection, L.L.C.*

Filed Date: 8/13/24.

Accession Number: 20240813–5059.

Comment Date: 5 p.m. ET 9/3/24.

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

Docket Numbers: ER19–1575–012; ER10–2488–029; ER13–1586–024; ER14–2871–023; ER15–463–022; ER15–621–022; ER15–622–022; ER16–72–018; ER16–182–018; ER16–902–015; ER17–47–015; ER17–48–016; ER18–47–015; ER18–2240–011; ER18–2241–011; ER19–427–011; ER19–1660–011; ER19–1662–011; ER19–1667–011; ER20–71–011; ER20–72–011; ER20–75–011; ER20–76–013; ER20–79–011; ER20–77–011; ER21–1368–007; ER21–1369–008; ER21–1371–008; ER21–1373–009; ER21–1376–009; ER21–2782–008; ER22–149–009; ER22–1439–009; ER22–1440–009; ER22–1441–009; ER22–1442–007; ER22–2419–005; ER22–2420–005; ER23–562–005; ER23–1048–005; ER23–2001–005; ER24–916–001; ER24–917–001.

Applicants: Placerita ESS, LLC, Beaumont ESS, LLC, Sagebrush ESS II, LLC, Lockhart ESS, LLC, TGP Energy Management II, LLC, Lockhart Solar PV II, LLC, Lockhart Solar PV, LLC, EdSan 1B Group 3, LLC, EdSan 1B Group 2, LLC, EdSan 1B Group 1 Sanborn, LLC, EdSan 1B Group 1 Edwards, LLC, Sagebrush Line, LLC, Sagebrush ESS, LLC, Sanborn Solar 1A, LLC, Edwards Solar 1A, LLC, Edwards Sanborn Storage II, LLC, Edwards Sanborn Storage I, LLC, Valley Center ESS, LLC, Painted Hills Wind Holdings, LLC, Voyager Wind IV Expansion, LLC, Oasis Plains Wind, LLC, Oasis Alta, LLC, Coachella Wind Holdings, LLC, Coachella Hills Wind, LLC, Terra-Gen VG Wind, LLC, Mojave 16/17/18 LLC, Mojave 3/4/5 LLC, LUZ Solar Partners IX, Ltd., Garnet Wind, LLC, Yavi Energy, LLC, Voyager Wind II, LLC, Terra-Gen Mojave Windfarms, LLC, DifWind Farms LTD VI, Voyager Wind I, LLC, Cameron Ridge II, LLC, San Gorgonio Westwinds II—Windustries, LLC, Ridgetop Energy, LLC, Pacific Crest Power, LLC, San Gorgonio Westwinds II, LLC, Cameron Ridge, LLC, TGP Energy Management, LLC, Oasis Power Partners, LLC, Alta Oak Realty, LLC.

Description: Notice of Non-Material Change in Status of Alta Oak Realty, LLC.

Filed Date: 8/9/24.

Accession Number: 20240809–5198.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER24–1039–001.

Applicants: Altona Solar, LLC.

Description: Notice of Non-Material Change in Status of Altona Solar, LLC.

Filed Date: 8/9/24.

Accession Number: 20240809–5197.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER24–2049–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2024–08–14_SA 4290 Deficiency Response NISPCO-Merrillville Solar GIA (J1386) to be effective 7/17/2024.

Filed Date: 8/14/24.

Accession Number: 20240814–5095.

Comment Date: 5 p.m. ET 9/4/24.

Docket Numbers: ER24–2297–000.

Applicants: Ross County Solar, LLC.

Description: Supplement to 06/17/2024 Ross County Solar, LLC tariff filing.

Filed Date: 8/13/24.

Accession Number: 20240813–5189.

Comment Date: 5 p.m. ET 8/23/24.

Docket Numbers: ER24–2394–000.

Applicants: Cataract Coast, LLC, Aurora Trading Company, LLC, Venturi Asset Management, LLC.

Description: Report Filing: Cataract Coast, LLC submits tariff filing per : Cataract Coast LLC Supplemental Filing to be effective N/A.

Filed Date: 8/12/24.

Accession Number: 20240812–5136.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2396–000.

Applicants: Venturi Asset Management, LLC.

Description: Report Filing: Venturi Asset Management Supplemental Filing to be effective N/A.

Filed Date: 8/13/24.

Accession Number: 20240813–5001.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2399–000.

Applicants: Aurora Trading Company, LLC.

Description: Report Filing: Aurora Trading Supplemental Filing to be effective N/A.

Filed Date: 8/13/24.

Accession Number: 20240813–5000.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–2769–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. Submits Capital Budget Quarterly Filing for the Second Quarter of 2024.

Filed Date: 8/9/24.
Accession Number: 20240809–5196.
Comment Date: 5 p.m. ET 8/30/24.
Docket Numbers: ER24–2770–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2024–08–14_SA 4321 MidAmerican-MidAmerican GIA (J1529) to be effective 8/5/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5023.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2771–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2024–08–14_SA 4322 MidAmerican-MidAmerican GIA (J1530) to be effective 8/5/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5026.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2772–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 36 to be effective 10/15/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5040.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2773–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of CSA, SA No. 6543; Queue No. AC1–033 to be effective 3/27/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5042.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2774–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 18 to be effective 10/15/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5051.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2776–000.
Applicants: Southern California Edison Company.
Description: Compliance filing: WDAT Order 2023 Compliance Filing to be effective 8/15/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5073.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2777–000.
Applicants: San Diego Gas & Electric.
Description: 205(d) Rate Filing: SDG&E WDAT Update Volume 6 to be effective 8/15/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5081.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2778–000.
Applicants: California Independent System Operator Corporation.
Description: 205(d) Rate Filing: 2024–08–14 Modernize Legacy Reporting Requirements to be effective 10/14/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5090.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2779–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Tariff Amendment: Notice of Cancellation of Letter Agreement Related to Last Hour to be effective 10/15/2024.
Filed Date: 8/14/24.
Accession Number: 20240814–5093.
Comment Date: 5 p.m. ET 9/4/24.
Docket Numbers: ER24–2780–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Original WMPA, Service Agreement No. 7339; AF1–330 to be effective 12/31/9998.
Filed Date: 8/14/24.
Accession Number: 20240814–5097.
Comment Date: 5 p.m. ET 9/4/24.

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 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18647 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24–24–000]

Commission Information Collection Activities (FERC–725V); 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–725V, Mandatory Reliability Standards: COM Reliability Standards. There are no changes to the reporting requirements with this information collection.

DATES: Comments on the collection of information are due October 21, 2024.

ADDRESSES: You may submit copies of your comments (identified by Docket No. IC24–24–000) 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.* 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–725V, Mandatory Reliability Standards: COM Reliability Standards.

OMB Control No.: 1902–0277.

Type of Request: Three-year extension of the FERC–725V information collection requirements with no changes to the current reporting requirements.

Abstract: On August 15, 2016, the North American Electric Reliability Corporation (NERC) filed a petition for Commission approval, pursuant to section 215(d)(1) of the Federal Power Act (''FPA'') [1] and Section 39.5 [2] of the Federal Energy Regulatory Commission's regulations, for Reliability Standard COM–001–3 (Communications), the associated Implementation Plan, retirement of currently-effective Reliability Standard COM–001–2.1, and Violation Risk Factors (''VRFs'') and Violation Severity Levels (''VSLs'') associated with new Requirements R12 and R13 in Reliability Standard COM–001–3. Reliability Standard COM–001–3 reflects revisions developed under Project 2015–07 Internal Communications Capabilities, in compliance with the Commission's directive in Order No. 888 that NERC ''develop modifications to COM–001–2, or develop a new standard, to address the Commission's concerns regarding ensuring the adequacy of internal communications capability whenever internal communications could directly affect the reliability opera.

Reliability Standards COM–001–2 and COM–002–4 do not require responsible entities to file information with the Commission. COM–001–2 requires that transmission operators, balancing authorities, reliability coordinators, distribution providers, and generator operators to maintain documentation of interpersonal communication capability and designation of Alternate Interpersonal Communication, as well as evidence of testing of the Alternate Interpersonal Communication facilities. COM–002–4 requires balancing authorities, distribution providers, reliability coordinators, transmission operators, and generator operators to develop and maintain documented communication protocols, and to be able to provide evidence of training on the protocols in their annual assessment. Additionally, all applicable entities (balancing authorities, reliability coordinators, transmission operators, generator operators, and distribution providers) must be able to provide evidence of three-part communication when issuing or receiving an operating instruction during an Emergency.

The one-time consideration of responsibility for COM–002–4 associated with Requirement R1 is no longer needed as entities previously developed protocols associated with effective communication. The ongoing work for COM–001–3 and COM–002–4 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. Since the previous renewal, there has been an incremental increase in the number of respondents who must meet the requirements of these two COM reliability standards.

Type of Respondents: Public utilities.

Estimate of Annual Burden: [3] The Commission estimates the annual public reporting burden for the information collection as:

FERC–725V, MANDATORY RELIABILITY STANDARDS: COM RELIABILITY STANDARDS

	Number of respondents [4]	Annual number of responses per respondent	Total number of responses	Average burden & cost per response [5]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Maintain evidence of Interpersonal Communication capability [COM–001–3 R7 and R8].	(DP) 300	1	300	4 hrs. $282.68	1,200 hrs. $84,804	$282.68
	(GOP) 1,028	1	1,028	4 hrs. $282.68	4,112 hrs. $290,595.04.	282.68
Maintain evidence of training and assessments [COM–002–4 R2, R4, R5 and R6].	(BA) 98	1	98	8 hrs. $565.36	784 hrs. $55,405.28	565.36
	(RC) 12	1	12	8 hrs. $565.36	96 hrs. $6,784.32	565.36
	(TOP) 165	1	165	8 hrs. $565.36	1,320 hrs. $93,284.40.	565.36
Maintain evidence of training [COM–002–4 R3 and R6].	(DP) 300	1	300	8 hrs. $565.36	2,400 hrs. $169,608	565.36
	(GOP) 1,028	1	1,028	8 hrs. $565.36	8,224 hrs. $581,190.08.	565.36
Total			2,931		18,136 hrs. $1,281,671.12.	

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

[1] 16 U.S.C. 824o (2012).

[2] 18 CFR 39.5 (2015).

[3] 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.

[4] BA = balancing authority, RC = Reliability Coordinator, DP = distribution provider, 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.

[5] 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 × .75 = 59.4825 ($59.48-rounded) ($59.48/hour) and 25% of an Information and Record Clerk (43–4199) $44.74/hr., $44.74 × .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. 2024–18529 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD24–3–000]

Commission Information Collection Activities (FERC–725B); 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–725B, Mandatory Reliability Standards, Critical Infrastructure Protection (CIP) (Update for CIP–012–1 to version CIP–012–02) Cyber Security—Communications between Control Centers. The 60-day notice comment period ended on July 23, 2024, with no comments received.

DATES: Comments on the collection of information are due September 19, 2024.

ADDRESSES: Send written comments on FERC–725B (1902–0248) to OMB through *www.reginfo.gov/public/do/PRAMain.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Numbers in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. RD24–3–000) 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, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) delivery:* Deliver to: Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: *https://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/ferc-online/overview.*

FOR FURTHER INFORMATION CONTACT: Kayla Williams may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–6468.

SUPPLEMENTARY INFORMATION:

Title: FERC–725B, Mandatory Reliability Standards, Critical Infrastructure Protection (CIP) (Update to CIP–012–2).

OMB Control No.: 1902–0248.

Type of Request: Revision of a currently approved FERC–725B information collection requirements with changes to the reporting requirements.

Abstract: On August 8, 2005, Congress enacted the Energy Policy Act of 2005.[1] The Energy Policy Act of 2005 added a new section 215 to the Federal Power Act (FPA),[2] which requires a Commission-certified Electric Reliability Organization to develop mandatory and enforceable Reliability Standards,[3] including requirements for cybersecurity protection, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the Electric Reliability Organization subject to Commission oversight, or the Commission can independently enforce Reliability Standards.

On February 3, 2006, the Commission issued Order No. 672,[4] implementing FPA Section 215. The Commission subsequently certified the North American Electric Reliability Corporation (NERC) as the Electric Reliability Organization. The Reliability Standards developed by NERC become mandatory and enforceable after Commission approval and apply to users, owners, and operators of the Bulk-Power System, as set forth in each Reliability Standard.[5] The CIP Reliability Standards require entities to comply with specific requirements to safeguard bulk electric system (BES) Cyber Systems[6] and their associated BES Cyber Assets. These standards are results-based and do not specify a technology or method to achieve

[1] Energy Policy Act of 2005, Public Law 109–58, sec. 1261 *et seq.,* 119 Stat. 594 (2005).

[2] 16 U.S.C. 824o.

[3] Section 215 of the FPA defines Reliability Standard as a requirement, approved by the Commission, to provide for reliable operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the Bulk-Power System. However, the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

[4] *Rules Concerning Certification of the Elec. Reliability Org.; and Procedures for the Establishment, Approval, and Enf't of Elec. Reliability Standards,* Order No. 672, 71 FR 8661 (Feb. 17, 2006), 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 71 FR 19814 (Apr. 28, 2006), 114 FERC ¶ 61,328 (2006).

[5] NERC uses the term ''registered entity'' to identify users, owners, and operators of the Bulk-Power System responsible for performing specified reliability functions with respect to NERC Reliability Standards. *See, e.g., Version 4 Critical Infrastructure Protection Reliability Standards,* Order No. 761, 77 FR 24594 (Apr. 25, 2012), 139 FERC ¶ 61,058, at P 46, *order denying clarification and reh'g,* 140 FERC ¶ 61,109 (2012). Within the NERC Reliability Standards are various subsets of entities responsible for performing various specified reliability functions. We collectively refer to these as ''entities.''

[6] NERC defines BES Cyber System as ''[o]ne or more BES Cyber Assets logically grouped by a responsible entity to perform one or more reliability tasks for a functional entity.'' NERC, Glossary of Terms Used in NERC Reliability Standards, at 5 (2020), Glossary_of_Terms.pdf (nerc.com) . NERC defines BES Cyber Asset as A Cyber Asset that if rendered unavailable, degraded, or misused would, within 15 minutes of its required operation, mis-operation, or non-operation, adversely impact one or more Facilities, systems, or equipment, which, if destroyed, degraded, or otherwise rendered unavailable when needed, would affect the reliable operation of the Bulk Electric System. Redundancy of affected Facilities, systems, and equipment shall not be considered when determining adverse impact. Each BES Cyber Asset is included in one or more BES Cyber Systems. *Id.* at 4.

compliance, instead leaving it up to the entity to decide how best to comply.

The Commission has approved multiple versions of the CIP Reliability Standards submitted by NERC, partly to address the evolving nature of cyber-related threats to the Bulk-Power System. High impact systems include large control centers. Medium impact systems include smaller control centers, ultra-high voltage transmission lines, large substations, and generating facilities. The remainder of the BES Cyber Systems are categorized as low impact systems. Most requirements in the CIP Reliability Standards apply to high and medium impact systems; however, a technical controls requirement in Reliability standard CIP–012, described below, applies to all (low, medium and high) impact Control Centers.

The FERC–725B information collection requirements are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[7] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[8] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

Reliability Standard CIP–012–2—Communications between Control Centers: requires entities to protect the confidentiality, integrity, and availability and integrity of data transmitted between Control Centers that could lead to mis-operation or instability on the Bulk-Power System. Specifically, the Reliability Standard CIP–012–2 is revised to add requirements for entities to provide protections of the availability of communication links and sensitive data transmitted between BES Control Centers. It is part of the implementation of the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System.

Type of Respondents: Business or other for profit, and not for profit institutions.

Estimate of Annual Burden:[9] The Commission bases its paperwork burden estimates on the changes in paperwork burden presented by the proposed revision to CIP Reliability Standard CIP–012–2 as compared to the current Commission-approved Reliability Standard CIP–012–1. As discussed above, the immediate order addresses the area of modification to the CIP Reliability Standards: modifications to provide protections of the availability of communication links and sensitive data transmitted between BES Control Centers.

The CIP Reliability Standards, viewed as a whole, implement a defense-in-depth approach to protecting the security of BES Cyber Systems at all impact levels.[10] The CIP Reliability Standards are objective-based and allow entities to choose compliance approaches best tailored to their systems.[11] The NERC Compliance Registry, as of March 15, 2024, identifies approximately 1,610 unique U.S. entities that are subject to mandatory compliance with CIP Reliability Standards. Of this total, we estimate that 730 entities will face an increased paperwork burden under proposed Reliability Standard CIP–012–2. Based on these assumptions, we estimate the following reporting burdens:

FERC–725B, MODIFICATIONS IN DOCKET NO. RD24–3–000

	Number of respondents (1)	Number of responses[12] per respondent (2)	Total number of responses (1) × (2) = (3)	Average burden hrs. & cost per response[13] (4)	Total annual burden hours & total annual cost (3) × (4) = 5
Implementation of Documented Plan(s) (Requirement R1)[14].	730	1	730	42 hrs.; $4,493.16	30,660 hrs.; $3,280,006.80.
Document Identification of methods to mitigate the risk(s) posed by unauthorized disclosure and unauthorized modification (Requirement R1.1)[14].	730	1	730	20 hrs.; $2,139.60	14,600 hrs.; $1,561,908.
Document Identification of methods to mitigate the risk(s) posed by loss of the ability to communicate (Requirement R1.2)[14].	730	1	730	60 hrs.; $6,418.80	43,800 hrs.; $4,685,724.
Document Identification of methods to use to initiate the recovery of communication links (Requirement R1.3)[14].	730	1	730	100 hrs.; $10,698	73,000 hrs.; $7,809,540.
Document Identification of where the implemented method(s) as required in Parts 1.1 and 1.2 (Requirement R1.4)[12].	730	1	730	50 hrs.; $5,349	36,500 hrs.; $3,904,770.
Document identification of the responsibilities of each Responsible Entity (if *not* owned by same Responsible Entity) required in Parts 1.1, 1.2 and 1.3 (Requirement R1.5)[14].	730	1	730	50 hrs.; $5,349	36,500 hrs.; $3,904,770.
Maintaining Compliance (ongoing, starting in Year 2)	730	1	730	1 hr.; $106.98	730 hrs.; $78,095.40.
Total (one-time, in Year 1)	.....	.....	4,380	.....	235,060 hrs.; $25,146,718.80.
Total (ongoing, starting in Year 2)	.....	.....	730	.....	730 hrs.; $78,095.40.

[7] 44 U.S.C. 3507(d) (2012).

[8] 5 CFR 1320.11 (2017).

[9] ''Burden'' is 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, refer to 5 CFR 1320.3.

[10] Order No. 822, 154 FERC ¶ 61,037 at 32.

[11] *Mandatory Reliability Standards for Critical Infrastructure Protection,* Order No. 706, 73 FR 7368 (Feb. 7, 2008), 122 FERC ¶ 61,040, at P 72 (2008); order on reh'g, Order No. 706–A, 123 FERC ¶ 61,174 (2008); order on clarification, Order No. 706–B, 126 FERC ¶ 61,229 (2009).

1. The one-time burden (in Year 1) for the FERC–725B information collection will be averaged over three years:

• 235,060 hours ÷ 3 = 78,353 (rounded) hours/year over Years 1–3.

• The number of one-time responses for the FERC–725B information collection is also averaged over Years 1–3: 4,380 responses ÷ 3 = 1,460 responses/year.

2. The average annual number (for Years 1–3) of responses and burden for one-time and ongoing burden will total:

• 2,190 responses [1,460 responses (one-time) + 730 responses (ongoing)].

• 79,083 burden hours [78,353 hours (one-time) + 730 hours (ongoing)].

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 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 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18641 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

[12] We consider the filing of an application to be a ''response.''

[13] The hourly cost for wages plus benefits is based on the average of the occupational categories for 2024 found on the Bureau of Labor Statistics website (*http://www.bls.gov/oes/current/naics2_22.htm*):

Information Security Analysts (Occupation Code: 15–1212): $80.62.

Computer and Mathematical (Occupation Code: 15–0000): $74.16.

Legal (Occupation Code: 23–0000): $160.24.

Computer and Information Systems Managers (Occupation Code: 11–3021): $112.88.

These various occupational categories' wage figures are averaged as follows: $80.62/hour + $74.16/hour + $160.24/hour + $112.88/hour) ÷ 4 = $106.975/hour ($106.98 rounded). The resulting wage figure is rounded to $106.98/hour for use in calculating wage figures in the Final Rule in Docket No. RD24–3–000.

[14] This includes the record retention costs for the one-time and the on-going reporting documents.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15000–003]

Erie Boulevard Hydropower, L.P.; Notice of Settlement Agreement and Soliciting Comments

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 15000–003.

c. *Date Filed:* August 9, 2024.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Franklin Falls Hydroelectric Project (project).

f. *Location:* The existing project is located on the Saranac River, in Essex and Franklin counties, New York.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Steven Murphy, Director, U.S. Licensing, Erie Boulevard Hydropower, L.P., 33 West 1st Street South, Fulton, New York 13069; telephone at (315) 598–6130; email at *steven.murphy@brookfieldrenewable.com*.

i. *FERC Contact:* Joshua Dub, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502–8138; email at *Joshua.Dub@FERC.gov*.

j. *Deadline for filing comments:* September 13, 2024. Reply comments due: September 28, 2024.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: Franklin Falls Hydroelectric Project (P–15000–003).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Erie filed a Settlement Agreement for the project's relicense proceeding, on behalf of itself, the U.S. Fish and Wildlife Service, the New York State Department of Environmental Conservation, and New York Trout Unlimited. The purpose of the Settlement Agreement is to resolve, among the signatories, relicensing issues related to project operation, water quality, fisheries, wildlife, and recreation. The Settlement Agreement includes proposed protection, mitigation, and enhancement measures to address: (1) modified run-of-river operation; (2) impoundment surface elevations; (3) minimum bypassed reach and downstream flows; (4) operation compliance and monitoring; (5) impoundment drawdowns; (6) fish exclusion and conveyance; (7) project recreation; (8) bald eagle protection; and (9) invasive species management. Erie requests that any new license issued by the commission for the project contain conditions consistent with the provisions of the Settlement Agreement and within the scope of its regulatory authority.

l. A copy of the Settlement Agreement is available for review 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 (*i.e.,* P–15000). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

You may also register online at *https://www.ferc.gov/ferc-online/overview* 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.*

Dated: August 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18643 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2767–000]

Pontotoc Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Pontotoc Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 3, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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*.

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 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18644 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–15331–001]

Marlow Hydro LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Licensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* 15331–001.

c. *Date filed:* July 31, 2024.

d. *Applicant:* Marlow Hydro LLC (Marlow Hydro).

e. *Name of Project:* Nash Mill Dam Hydroelectric Project.

f. *Location:* On the Ashuelot River, in town of Marlow, Cheshire County, New Hampshire. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Anthony B. Rosario, Marlow Hydro, 139 Henniker St, Hillsborough, NH, 03244; Phone at (603) 494–1854; or email at *t-iem@tds.net.*

i. *FERC Contact:* Prabha Madduri at 202–502–8017, or *prabharanjani.madduri@ferc.gov*.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* September 30, 2024.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: Nash Mill Dam Project (P–15331–001).

m. The application is not ready for environmental analysis at this time.

n. *The Nash Mill Project consists of the following existing facilities:* (1) a 57-foot-long, 9-foot-high, concrete gravity dam topped with 3-foot-high collapsible wooden flashboards with a crest elevation of 1,133.41 feet North American Vertical Datum 1988 (NAVD 88) at the top of the flashboards; (2) a 2-acre impoundment; (3) an intake structure on the north side of the dam equipped with a 10-foot-high by 10-foot-wide trash rack with 1-inch clear bar spacing; (4) a 4-feet-diameter, 1,525-feet-long round steel penstock that trifurcates into two 24-inch-diameter penstocks and one 4-foot-diameter pipe; (5) a 31-foot-long by 18-foot-wide powerhouse that contains two vertical-shaft, fixed propeller turbine-generator units and one horizontal-shaft turbine-generator unit for a total installed capacity of 225 kilowatts; (6) a 600-foot-long tailrace; (7) a 1,800-foot long bypassed reach (8) a 0.48 kilovolt (kV), 75 kilo-volt-amperes transformer; (9) a 1,830-foot-long, 12.5-kV transmission line; and (10) appurtenant facilities.

Marlow Hydro currently operates the project in a run-of-river mode. The current license requires Marlow Hydro to release a continuous minimum flow of 23 cubic feet per second (cfs) from the project as measured downstream of the powerhouse, with a continuous flow of 5.2 cfs over the dam. From 2016 to 2020, average annual generation of the Nash Mill Project was 552 megawatt-hours.

Marlow Hydro proposes to continue operating the project in a run-of-river mode and would increase the bypass flow from 5.2 cfs to 14.5 cfs.

o. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–15331). For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call tollfree, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202)502–6595 or *OPP@ferc.gov*.

p. Procedural schedule and final amendments: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary).	October 2024
Request for Additional Information.	October 2024
Issue Notice of Acceptance	January 2025
Issue Scoping Document 1 for comments.	February 2025
Request Additional Information (if necessary).	April 2025
Issue Scoping Document 2 (if necessary).	May 2025

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 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18642 Filed 8–19–24; 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: RP24–969–000.
Applicants: National Fuel Gas Supply Corporation.
Description: 4(d) Rate Filing: GT&C Section 26.11 Pre-arranged Deals to be effective 9/12/2024.
Filed Date: 8/13/24.
Accession Number: 20240813–5082.
Comment Date: 5 p.m. ET 8/26/24.

Docket Numbers: RP24–970–000.
Applicants: Empire Pipeline, Inc.
Description: 4(d) Rate Filing: GT&C Section 14.12 Pre-arranged Deals to be effective 9/12/2024.
Filed Date: 8/13/24.
Accession Number: 20240813–5128.
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: RP24–967–001.
Applicants: Northern Natural Gas Company.
Description: Tariff Amendment: 20240813 Amend Carlton Flow Obligation to be effective 11/1/2024.
Filed Date: 8/13/24.
Accession Number: 20240813–5160.
Comment Date: 5 p.m. ET 8/26/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 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 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18646 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD24–9–000]

Innovations and Efficiencies in Generator Interconnection; Second Supplemental Notice of Staff-Led Workshop

As first announced in the Notice of Staff-Led Workshop issued in this proceeding on May 13, 2024, as supplemented on June 27, 2024, pursuant to 18 CFR 2.1(a), the Federal Energy Regulatory Commission (Commission) will convene a staff-led workshop in the above-referenced proceeding at Commission headquarters, 888 First Street NE, Washington, DC 20426 on Tuesday, September 10, 2024 and Wednesday, September 11, 2024 from approximately 9:00 a.m. to 5:00 p.m. Eastern time. The conference will be webcast.

Attached to this Second Supplemental Notice is an agenda for the workshop, which includes a final workshop program and expected speakers. The Commissioners may attend and participate in the workshop.

Panelists are asked to submit advance materials to provide written answers to the questions presented for their respective panel and any further information (*e.g.,* summary statements, reports, whitepapers, studies, or testimonies) that panelists believe should be included in the record of this proceeding. Panelists should file all advance materials in the AD24–9–000 docket by August 26, 2024.

Discussions at the workshop will not address compliance with Commission Order No. 2023 [1] or any pending Order No. 2023 compliance filings. While the intent of the workshop is not to focus on any specific matters before the Commission, in the event that panelist materials or discussions focus on topics at issue in proceedings currently pending before the Commission, a further notice will be issued to identify those proceedings.

An additional supplemental notice will be issued following the workshop with the opportunity for interested parties to submit post-workshop comments.

The workshop will be open to the public to attend virtually or in person and there is no fee for attendance. Information will also be posted on the Calendar of Events on the Commission's website,[2] prior to the event. Attendees are requested to register through the Commission's website on or before August 26, 2024. Registration will help ensure that Commission staff can provide sufficient physical and virtual facilities and to communicate with attendees in the case of unanticipated emergencies or other changes to the conference schedule or location. Access to the conference (virtual or in-person) may not be available to those who do not register by August 26.

The workshop will be transcribed, and transcripts will be available for a fee from Ace Reporting (202–347–3700). A link to the webcast of this event and its recording will be available in the Commission Calendar of Events at *www.ferc.gov.* The Commission provides technical support for the free webcasts. Please call 202–502–8680 or email *customer@ferc.gov* if you have any questions.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For further information about this workshop, please contact:

Sarah McKinley (Logistical Information), Office of External Affairs, 202–502–8368, *Sarah.McKinley@ferc.gov*

Michael G. Henry (Technical Information), Office of Energy Policy and Innovation, 202–502–8583, *Michael.Henry@ferc.gov*

Lewis Taylor (Legal Information), Office of General Counsel, 202–502–8624, *Lewis.Taylor@ferc.gov.*

Dated: August 14, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

Staff-Led Workshop on Innovations and Efficiencies in Generator Interconnection

Docket No. AD24–9–000

September 10 and 11, 2024

September 10 Agenda: Innovations

9:00 a.m.–9:15 a.m.: Welcome and Opening Remarks

9:15 a.m.–11:45 a.m.: Innovations Panel 1: Integrated Transmission Planning and Generator Interconnection

This panel will discuss the extent to which transmission planning and generator interconnection processes may be further integrated beyond the reforms adopted in Order No. 1920.[3] This panel will explore ideas to more efficiently and proactively plan for and interconnect new generation with increased cost certainty.

Questions

1. Can efficiencies be gained through closer integration of generator interconnection processes with transmission planning processes? If so, how? What considerations need to be taken into account? What are the advantages/disadvantages, including impacts on consumers, to closer integration of these processes?

2. How might transmission providers more proactively, rather than reactively, identify zones where new transmission capacity could most efficiently accommodate proposed generating facilities?

3. What mechanisms may be appropriate for transmission providers to use to determine the cost responsibility for such proactively planned network upgrades? Is it appropriate for any such costs to be allocated to load and if so, why? If it is appropriate, how should such costs be allocated between load and interconnection customers both: (a) in regions that use participant funding, *i.e.,* where interconnection customers are directly assigned network upgrade costs and (b) in regions that do not use participant funding, *i.e.,* where load is assigned network upgrade costs? What are the advantages/disadvantages,

[1] *Improvements to Generator Interconnection Procs. & Agreements,* Order No. 2023, 184 FERC ¶ 61,054, *order on reh'g,* 185 FERC ¶ 61,063 (2023), *order on reh'g,* Order No. 2023–A, 186 FERC ¶ 61,199 (2024).

[2] *https://www.ferc.gov/news-events/events/innovations-and-efficiencies-generator-interconnection-workshop-docket-no-ad24-9.*

[3] *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation,* Order No. 1920, 187 FERC ¶ 61,068 (2024).

including impacts on consumers, of varying approaches to cost responsibility?

4. Where the costs exceed estimates for such proactively planned network upgrades, what are some approaches transmission providers could use to address concerns regarding ensuring adequate funding? For any given approaches proposed to ensure adequate funding, would these mechanisms increase or decrease the time and/or costs required to interconnect new resources, and how would this impact interconnection customers?

Panelists

- Beth Garza—*Senior Fellow,* R Street Institute
- Arash Ghodsian—*Vice President, Transmission & Policy,* Invenergy
- John Michael Haggerty—*Principal,* The Brattle Group
- Natasha Henderson—*Senior Director of Grid Asset Utilization,* Southwest Power Pool
- Aubrey Johnson—*Vice President of System Planning,* Midcontinent Independent System Operator, Inc.
- David Mindham—*Director of Regulatory and Market Affairs,* EDP Renewables North America
- Zach Smith—*Senior Vice President, System Resource Planning,* New York Independent System Operator

11:45 p.m.–12:45 p.m.: Lunch

12:45 p.m.–2:30 p.m.: Innovations Panel 2: Exploring Different Approaches to Processing and Studying Generator Interconnection Requests

This panel will focus on the viability and utility of different approaches to organizing, processing, and studying generator interconnection requests. Examples include a ''connect and manage'' process where interconnection requests for Energy Resource Interconnection Service (ERIS) may be interconnected more quickly and at lower cost than interconnection requests for Network Resource Interconnection Service (NRIS), the use of competitive mechanisms (such as an auction process) to allocate scarce capacity or to resolve competition for the same point of interconnection, as well as other potential approaches.

Questions

1. Please discuss the advantages and disadvantages of making ERIS, which requires the proposed generating facility to mitigate overloads through network upgrades to allow the generating facility to operate at full output (albeit without the deliverability analysis that NRIS entails), more like the approach used in the region managed by the Electricity Reliability Council of Texas (ERCOT), sometimes referred to as a ''connect and manage'' approach, which curtails the generating facility in the study model when needed to minimize network upgrades at the cost of risking real-time curtailments and subsequently identifies necessary network upgrades through the transmission planning process.

2. How could elements of the ERCOT ''connect and manage'' approach be incorporated into the current structure of Commission-jurisdictional markets and *pro forma* generator interconnection procedures and agreements?

a. Could customers interconnecting under this type of approach eventually increase their deliverability or reduce curtailments, such as by later converting to NRIS? How would this conversion be accomplished?

b. In the context of RTO/ISO markets, how would an RTO/ISO account for resources' differing levels of interconnection service (*e.g.,* ''connect and manage'' versus NRIS or its equivalent) and any associated capacity rights when dispatching resources pursuant to security-constrained economic dispatch?

3. What other approaches could build on the *pro forma* generator interconnection procedures and agreements adopted in Order No. 2023 to more efficiently organize interconnection queues and process interconnection requests?

a. Should transmission providers proactively identify zones where there is currently available transmission capacity or new transmission capacity due to planned transmission facilities and provide information on these zones to interconnection customers? If so, how should transmission providers identify these zones and how should they communicate that information to interconnection customers?

b. If transmission providers identify zones, as described in (a) above, should auctions be used to assign queue positions or allocate excess transmission capacity in those zones? What other approaches could be considered?

c. How could such procedures ensure that generator interconnection service is consistent with open access principles and is provided in a manner that is not unduly discriminatory or preferential?

Panelists

- Liz Delaney—*Vice President of Utility-Scale Policy and Business Development,* New Leaf Energy, Inc.
- Jennifer Galaway—*Senior Manager of Regional Transmission Development & Interconnection Services,* Portland General Electric
- Dr. Warren Lasher—*President,* Lasher Energy Consulting LLC
- Tyler H. Norris—*James B. Duke Fellow & Ph.D. Student,* Duke University
- Matt Picardi—*Vice President of Regulatory Affairs,* Shell Energy North America
- Aaron Vander Vorst—*Head of Growth Strategy and Transmission,* Enel North America
- Andy Witmeier—*Director of Resource Utilization,* Midcontinent Independent System Operator, Inc.

2:30 p.m.–2:45 p.m.: Break

2:45 p.m.–4:30 p.m.: Innovations Panel 3: Prioritizing Certain Generator Interconnection Requests

This panel will examine whether certain proposed generator interconnection requests may be prioritized in the interconnection queue without undue discrimination, building on the use of first-ready, first-served cluster window deadlines and readiness milestones as adopted by Order No. 2023.

Questions

1. Are there any viable, not unduly discriminatory methods for further prioritization of interconnection requests to increase queue efficiency and ensure just and reasonable rates?

2. Would prioritization of interconnection requests selected in open competitive resource solicitations over other interconnection requests that are not similarly selected add efficiency to the generator interconnection process? How would this type of prioritization affect the alignment of transmission planning, resource solicitation, and generator interconnection processes? Under such a prioritization, must an open competitive solicitation process meet certain requirements to avoid infringing on the Commission's open access transmission requirements?

3. Should interconnection requests for new generating facilities submitted to replace existing generating facilities at existing points of interconnection (replacement generation) have priority in the transmission provider's processing of its interconnection queue over the interconnection of new generating facilities at new points of interconnection? If so, are there conditions that should be required for such prioritization of replacement generation, for example, a finding by the transmission provider that the replacement generation allows for a faster or lower-cost interconnection as compared to the interconnection of new generating facilities at new points of interconnection?

4. Should interconnection requests from proposed new generating facilities that meet certain resource adequacy or reliability needs have priority over other interconnection requests for new generating facilities?

Panelists

- Eric Blank—*Chairman,* Colorado Public Utilities Commission
- Joshua Burkholder—*Managing Director of Integrated Resource Planning,* American Electric Power Company, Inc.
- Jason Burwen—*Vice President of Policy and Strategy,* GridStor
- Mike Calviou—Senior Vice President of US Policy & Regulation, National Grid
- Adrien Ford—*Wholesale Market Development Director,* Constellation Energy Generation, LLC
- Danielle Osborn Mills—*Principal of Infrastructure Policy Development,* California ISO

4:30 p.m.–4:45 p.m.: Closing Remarks

September 11 Agenda

9:00 a.m.–9:15 a.m.: Welcome and Opening Remarks

9:15 a.m.–11:45 a.m.: Efficiencies Panel 1: Further Efficiencies in the Generator Interconnection Process

This panel will evaluate the potential for increased efficiency throughout the generator interconnection process as revised in the Commission's Order No. 2023 [4] (excluding topics covered in Efficiencies Panels 2 and 3), such as providing additional pre-application data to interconnection customers to allow for more efficient decision-making or establishing fast-track processes for interconnection requests at points of interconnection with fewer transmission system constraints.

Questions

1. What specific types of additional pre-application data provided to interconnection customers would facilitate greater efficiencies in the application phase and the rest of the generator interconnection process?

a. How would these types of data be helpful to interconnection customers?

b. Are there inefficiencies or complications associated with providing these types of additional pre-application data?

2. Regarding potential fast-track processes:

a. Of the existing fast-track processes, such as California ISO's independent study process, which work well? What about them could be improved or emulated to achieve greater efficiencies?

b. For interconnection requests that have little or minimal impact on existing transmission capacity, should there be a fast-track process or other prioritization method?

3. What types of remedial or mitigation mechanisms could address instances where inadvertent oversights or technical difficulties result in milestone failures, and interconnection customers do not learn of these issues in time to file a waiver request? In such instances, where good faith and a significant consequence to not meeting the particular milestone are also present, how may transmission providers modify their tariffs to reach a balanced resolution that enhances the stability of the interconnection process while also ensuring that only viable generating facilities remain in the queue?

4. What other opportunities exist to increase the efficiency of the existing generator interconnection procedures and agreements?

Panelists

- Chris Barker—*Managing Director, Transmission & Grid Integration,* Clearway Energy Group
- Donnie Bielak—*Director, Interconnection Planning,* PJM Interconnection, LLC
- Jonathan E. Canis—*General Counsel,* Oceti Sakowin Power Authority
- Brian Fitzsimons—*CEO,* GridUnity, Inc.
- Caitlin Marquis—*Managing Director,* Advanced Energy United
- Joe Rand—*Energy Policy Researcher,* Lawrence Berkeley National Laboratory
- Martin Wyspianski—*Vice President of Electric Engineering, Electric Asset Management,* Pacific Gas and Electric Company

11:45 p.m.–1:00 p.m.: Lunch

12:45 p.m.–2:30 p.m.: Efficiencies Panel 2: Automation and Advanced Computing Technologies

This panel will assess opportunities for greater efficiency in the processing and study of interconnection requests by automating different steps in the process and using advanced computing technologies, such as artificial intelligence, to shorten the timeline from interconnection request to generator interconnection agreement.[5]

Questions

1. Please describe the different steps in the generator interconnection process that may be automated and your experience automating these steps, including data entry, base case model building, running power flow studies, and identifying solutions. How can automation reduce errors, improve study repeatability and transparency, or address workforce needs?

2. Are you using AI tools in your generator interconnection processes? Are these AI tools part of or separate from your work on automation? What have been the advantages and disadvantages of adopting these AI tools? Looking across the electric power industry, how common is the use of AI tools?

3. Looking across the electric power industry, how common is automation in the different steps of the generator interconnection process (*e.g.,* model building) today? What do you think are the main challenges to broader adoption of automation? Do the Commission's existing regulatory frameworks and/or utility processes present any impediments in these areas? If so, what are the impediments? What role can the Commission play in supporting the adoption of automation in the generator interconnection process? What reforms, if any, would you recommend that the Commission consider pursuing to facilitate greater automation in the processing and study of interconnection requests?

4. Recognizing that a lack of standardized data inputs and outputs can create challenges, how can automation reduce variability between studies done by a given transmission provider or reduce variability of studies between transmission providers?

5. In developing the base case model, what role can automation play to address rapidly changing load forecasts or to improve the coordination of generator interconnection and transmission planning?

Panelists

- David Bromberg—*Co-Founder and CEO,* Pearl Street Technologies
- Cody Doll—*Sr. Manager of Transmission Business Management,* at NextEra Energy Resources
- Andrew Martin—Co-Founder and Transmission Lead, Nira Energy
- Anton Ptak—*Director of Transmission and Interconnection,* EDF Renewables
- Jennifer Swierczek—*Manager Generator Interconnection,* Southwest Power Pool

2:30 p.m.–2:45 p.m.: Break

[4] *Improvements to Generator Interconnection Procs. & Agreements,* Order No. 2023, 184 FERC ¶ 61,054, *order on reh'g,* 185 FERC ¶ 61,063 (2023), *order on reh'g,* Order No. 2023–A, 186 FERC ¶ 61,199 (2024).

[5] Artificial intelligence (AI) is a broad term for a spectrum of tools ranging from simple data validation to more sophisticated machine learning and statistical modeling, to advanced deep learning and generative AI.

2:45 p.m.–4:30 p.m.: Efficiencies Panel 3: Post-Generator Interconnection Agreement Construction Phase

This panel will focus on the time period after execution of a generator interconnection agreement (GIA), or its filing unexecuted, through the commercial operation date (COD). Topics include opportunities for greater efficiency, transparency, and accountability in cost and time estimates for interconnection facilities and network upgrades, as well as identifying other problems that contribute to delays, such as supply chain issues, which may benefit from organized cooperation among stakeholders.

Questions

1. What are the primary cost and timing concerns arising during the period between execution, or unexecuted filing, of a GIA and the COD? To the extent that cost increases and delays for interconnection facilities and network upgrades are becoming more frequent, what are the primary drivers of those issues?

2. Are there productive ways to increase transparency around construction plans and progress of interconnection facilities and network upgrades, such as CAISO's quarterly forum to track the status of network upgrades, SPP's quarterly transmission project tracking report, or California's newly instated metrics for tracking distribution-level interconnection timeframes? What construction metrics for interconnection facilities and network upgrades would be most informative? How much documentation is reasonable and not unduly burdensome?

3. Are there new approaches to sourcing equipment for interconnection facilities and network upgrades that could be more efficient? What safeguards would need to be in place for engineering, procurement, and construction work for such facilities to begin earlier? Is there a way to pool equipment purchasing or risk? Are there efficiencies that may be achieved by standardizing engineering, procurement, or construction of interconnection facilities and network upgrades? Would pooling procurement of equipment provide manufacturers with the certainty needed to increase their manufacturing capacity thereby reducing lead times?

4. Are there efficiencies that may be gained by enhancing internal transmission owner or RTO/ISO procedure, increasing staffing, or by opening up interconnection facility studies and/or interconnection facility construction work to contractors? How can the interconnection study process be better aligned with interconnection customer-initiated processes, such as permitting for the generating facility and generator equipment procurement?

Panelists

- Lionel Chailleux—*Senior VP, Market Development North America,* Hitachi Energy.
- Matthew Crosby—*Senior Director, Grid Integration,* Cypress Creek Renewables
- Neil Millar—*Vice President of Infrastructure and Operations Planning Organization,* California ISO
- Jing Shi—*Managing Director of Renewable Integration,* Duke Energy
- Carrie Zalewski—*Vice President of Transmission and Electricity Markets,* American Clean Power Association

4:30 p.m.–4:45 p.m.: Closing Remarks

[FR Doc. 2024–18648 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2754–000]

Western Maine Renewables, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Western Maine Renewables, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 3, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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.*

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. 2024–18530 Filed 8–19–24; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1296; FR ID 239266]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before October 21, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1296.

Title: Private Entity Robocall and Spoofing Information Submission Portal, FCC Form 5642.

Form Number: FCC Form 5642.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, and Not-for-profit institutions.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in the TRACED Act section 10(a).

Total Annual Burden: 50 hours.

Total Annual Cost: No Cost.

Needs and Uses: Section 10(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) directed the Commission to establish regulations to create a process that ''streamlines the ways in which a private entity may voluntarily share with the Commission information relating to'' a call or text message that violates prohibitions regarding robocalls or spoofing set forth section 227(b) and 227(e) of the Communications Act of 1934, as amended. On June 17, 2021, the Commission adopted a *Report and Order* to implement section 10(a) by creating an online portal located on the Commission's website where private entities may submit information about robocall and spoofing violations. The Enforcement Bureau (Bureau) manages this portal. The Bureau made the portal accessible to the public on December 20, 2022.

A private entity is any entity other than (1) an individual natural person or (2) a public entity. A public entity is any governmental organization at the federal, state, or local level. Thus, the portal is not intended for individual consumers who already have a mechanism to submit robocall or spoofing complaints via the Commission's informal complaint process.

The portal requests private entities to submit certain minimum information including, but not necessarily limited to, the name of the reporting private entity, contact information, including at least one individual name and means of contacting the entity (*e.g.,* a phone number), the caller ID information displayed, the phone number(s) called, the date(s) and time(s) of the relevant calls or texts, the name of the reporting private entity's service provider, and a description of the problematic calls or texts. Although the portal does not reject submissions that fail to include the above information, such failure will make it more difficult for the Bureau to investigate fully and take appropriate enforcement action. Once submitted, the Bureau reviews to determine whether the information presents evidence of a violation of the Commission's rules. The Bureau may share submitted information with the Department of Justice, Federal Trade Commission, other federal agencies combatting robocalls, state attorney general offices, other law enforcement entities with which the Commission has information sharing agreements, and the registered traceback consortium.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–18619 Filed 8–19–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 24–801; FR ID 238977]

Consumer Advisory Committee; Announcement of Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission announces the third meeting of the twelfth term of its Consumer Advisory Committee (CAC or Committee).

DATES: Tuesday, September 24, 2024. The meeting will come to order at 1:00 p.m. Eastern Time.

ADDRESSES: The CAC meeting will be held in-person at the Commission's headquarters located at 45 L ST NE, Washington, DC 20554. Video and audio coverage will be provided at: *www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Keyla Hernandez-Ulloa, Designated Federal Officer, Federal Communications Commission, via email: *cac@fcc.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to members of the general public. The in-person meeting will have sign language interpreters. The webcast will have sign language interpreters and open captioning at: *www.fcc.gov/*live. In addition, a reserved amount of time will be available on the agenda for comments and inquiries from the public. Members of the public will be able to provide

comments either in person if they are attending the meeting or by sending their questions or comments to *livequestions@fcc.gov.* These comments or questions may be addressed during the public comment period.

Requests for other reasonable accommodations or for materials in accessible formats for people with disabilities should be submitted via email to: *fcc504@fcc.gov* or by calling the Consumer and Governmental Affairs Bureau at (202) 418–0530. Such requests should include a detailed description of the accommodation needed and a way for the FCC to contact the requester if more information is needed to fill the request. Requests should be made as early as possible; last minute requests will be accepted but may not be possible to accommodate.

Proposed Agenda: At this meeting, CAC members are expected to present a report in response to its charge from the FCC. Presentations will be led by the Chairs of Working Group 1—Technical and Working Group 2—Outreach and Education. The presentations will be followed by a full Committee discussion. The report will include content based on the CAC's charge to address the implication of emerging artificial intelligence (AI) technologies on consumer privacy and protection, including how AI can help protect vulnerable consumer populations from unwanted and illegal calls, along with other consumer protection issues. The meeting agenda will be available at *https://www.fcc.gov/consumer-advisory-committee* and may be modified at the discretion of the CAC Co-Chairs and Designated Federal Officer (DFO).

Federal Communications Commission.

Robert A. Garza,

Legal Advisor, Consumer and Governmental Affairs Bureau.

[FR Doc. 2024–18552 Filed 8–19–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10573 and CMS–379]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 21, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10573 Reform of Requirements for Long-Term Care Facilities
CMS–379 Financial Statement of Debtor

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* Reform of Requirements for Long-Term Care Facilities; *Use:* Sections 1818 and 1919 of the Act (42 U.S.C. 1395i–3 and 42 U.S.C. 1396r, respectively) specify certain requirements that a LTC facility must meet to participate in the Medicare and Medicaid programs. In particular, sections 1819(d)(4)(B) and 1919(d)(4)(B) require that a SNF or NF must meet such other requirements relating to the health, safety, and well-being of residents or relating to the physical facilities thereof as the Secretary many find necessary.

Under the authority of sections 1819, 1919, 1128I (b) and (c), and 1150B of the Act, the Secretary proposes to establish in regulation the requirements that an LTC facility must meet to participate in the Medicare and Medicaid programs. We are revising the information collection requirements for the proposed respiratory illness reporting that would replace the current requirement on COVID–19 reporting at § 483.80(g) based on the proposed rule, Medicare Program; Calendar Year (CY) 2025 Home Health Prospective Payment

System (HH PPS) Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin (IVIG) Items and Services Rate Update; and Other Medicare Policies (July 2, 2024/89 FR 55312). In this proposed rule, we revised the LTC requirements for COVID–19 reporting to establish a new requirement for respiratory illness reporting that includes COVID–19, RSV, and influenza. *Form Number:* CMS–10573 (OMB control number: 0938–1363); *Frequency:* Occasionally; *Affected Public:* Private Sector, Business or other for-profits, Not-for-profits; *Number of Respondents:* 14,926; *Number of Responses:* 14,926; *Total Annual Hours:* 6,253,995. (For policy questions regarding this collection contact Diane Corning at 410–786–8486).

2. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Financial Statement of Debtor; *Use:* When a Medicare Administrative Contractor (MAC) overpays a physician or supplier, the overpayment is associated with a single claim, and the amount of the overpayment is moderate. In these cases, the physician/supplier usually refunds the overpaid amount in a lump sum. Alternatively, the MAC may recoup the overpaid amount against future payments. A recoupment is the recovery by Medicare of any outstanding Medicare debt by reducing present or future Medicare payments and applying the amount withheld to the indebtedness. The recoupment can be made only if the physician/supplier accepts assignment since the MAC makes payment to the physician/supplier only on assigned claims.

The physician/supplier may be unable to refund a large overpaid amount in a single payment. The MAC cannot recover the overpayment by recoupment if the physician/supplier does not accept assignment of future claims, or is not expected to file future claims because of going out of business, illness or death. In these unusual circumstances, the MAC has authority to approve or deny extended repayment schedules up to 12-months or may recommend to the Centers for Medicare and Medicaid Services (CMS) to approve up to 60 months. Before the MAC takes these actions, the MAC will require full documentation of the physician's/supplier's financial situation. Thus, the physician/supplier must complete the CMS–379, Financial Statement of Debtor.

Section 1893(f)(1)) of the Social Security Act and 42 CFR 401.607 provides the authority for collection of this information. Section 42 CFR 405.607 requires that, CMS recover amounts of claims due from debtors including interest where appropriate by direct collections in lump sums or in installments. *Form Number:* CMS–379 (OMB control number: 0938–0270); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 1,000 hours. (For policy questions regarding this collection contact Monica Thomas, at 410–786–4292.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–18655 Filed 8–19–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–240]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by September 19, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Prospective Payments for Hospital Outpatient Services and Supporting Regulations in 42 CFR 413.65; Use: Section 1833(t) of the Act, as added by section 4523 of the Balanced Budget Act of 1997 (the BBA) requires the Secretary to establish a prospective payment system (PPS) for hospital outpatient services. Successful implementation of an outpatient PPS

requires that CMS distinguish facilities or organizations that function as departments of hospitals from those that are freestanding, so that CMS can determine which services should be paid under the OPPS, the clinical laboratory fee schedule, or other payment provisions applicable to services furnished to hospital outpatients. Information from the reports required under sections 413.65(b)(3) and (c) is needed to make these determinations. In addition, section 1866(b)(2) of the Act authorizes hospitals and other providers to impose deductible and coinsurance charges for facility services but does not allow such charges by facilities or organizations which are not provider-based. Implementation of this provision requires that CMS have information from the required reports, so it can determine which facilities are provider-based. *Form Number:* CMS–R–240 (OMB control number: 0938–0798); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 2032; *Total Annual Responses:* 15,138,400; *Total Annual Hours:* 683,670. (For policy questions regarding this collection contact Emily Lipkin at 410–786–3633.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–18654 Filed 8–19–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–3698]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or we) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (the committee). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The committee will discuss considerations related to the use of pertussis controlled human infection models (CHIMs) in pivotal studies to demonstrate efficacy of pertussis vaccines for the purpose of licensure and will hear an overview of the Laboratory of Mucosal Pathogens and Cellular Immunology (LMPCI) research program in the Center for Biologics Evaluation and Research (CBER). At least one portion of the meeting will be closed to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on September 20, 2024, from 8:30 a.m. to 5 p.m. Eastern Time.

ADDRESSES: All meeting participants will be heard, viewed, captioned, and recorded for this advisory committee meeting via an online teleconferencing and/or video conferencing platform. The online web conference meeting will be available at the following link on the day of the meeting: *https://youtube.com/live/_IHObqjNpYc.*

Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2024–N–3698. The docket will close on September 19, 2024. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 19, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before September 12, 2024, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2024–N–3698 for ''Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public

viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Sussan Paydar or Kathleen Hayes, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 202–657–8533, *CBERVRBPAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing and/or video conferencing platform. On September 20, 2024, under Topic I, the committee will meet in open session to discuss considerations related to the use of pertussis CHIMs in pivotal studies to demonstrate efficacy of pertussis vaccines for the purpose of licensure. Under Topic II, the committee will meet in open session to hear an overview of the LMPCI research program in the Division of Bacterial, Parasitic, and Allergenic Products, Office of Vaccines Research and Review, and CBER. After the open session, the meeting will be closed to the public for committee deliberations.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference and/or video conference meeting will be available at: *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio and video components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: On September 20, 2024, from 8:30 a.m. to 3:10 p.m. Eastern Time for Topic I and from 3:10 p.m. to 4:10 p.m. Eastern Time for Topic II, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before September 12, 2024, will be provided to the committee. Comments received on or after September 12, 2024, and by September 19, 2024, will be taken into consideration by FDA. Oral presentations from the public will be scheduled between approximately 12:30 p.m. to 1:15 p.m. Eastern Time for Topic I, and 3:55 p.m. to 4:10 p.m. Eastern Time for Topic II. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, along with their names, email addresses, and direct contact phone numbers of proposed participants, and an indication of the approximate time requested to make their presentation on or before 12 p.m. Eastern Time on September 4, 2024. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 6, 2024.

Closed Committee Deliberations: On September 20, 2024, the meeting will be closed from 4:10 p.m. to 5 p.m. Eastern Time to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The recommendations of the advisory committee regarding the progress of the individual investigators' research programs, along with other information, will be discussed during this session. We believe that public discussion of these recommendations on individual scientists would constitute an unwarranted invasion of personal privacy.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Sussan Paydar or Kathleen Hayes (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*). This meeting notice also serves as notice that, pursuant to 21 CFR 10.19, the requirements in 21 CFR 14.22(b), (f), and (g) relating to the location of advisory committee meetings are hereby waived to allow for this meeting to take place using an online meeting platform. This waiver is in the interest of allowing greater transparency and opportunities for public participation, in addition to convenience for advisory committee members, speakers, and guest speakers. The conditions for issuance of a waiver under 21 CFR 10.19 are met.

Dated: August 15, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–18617 Filed 8–19–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–0044]

Product-Specific Guidance Meetings Between the Food and Drug Administration and Abbreviated New Drug Application Applicants Under the Generic Drug User Fee Amendments; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Product-Specific Guidance Meetings Between FDA and ANDA Applicants Under GDUFA.'' This guidance provides recommendations to industry on product-specific guidance (PSG) meetings between FDA and a prospective applicant preparing to submit to FDA, or an applicant that has submitted to FDA, an abbreviated new drug application (ANDA) under the Federal Food, Drug and Cosmetic Act (FD&C Act). Specifically, this guidance provides information on requesting and conducting PSG meetings with FDA (*i.e.,* pre-submission PSG teleconferences, post-submission PSG teleconferences, pre-submission PSG meetings, and post-submission PSG meetings), as contemplated in the Generic Drug User Fee Amendments (GDUFA) Reauthorization Performance Goals and Program Enhancements Fiscal Years 2023–2027 (GDUFA III commitment letter). This guidance provides procedures that will promote well-managed PSG meetings and help ensure that such meetings are scheduled and conducted in accordance with the time frames set forth in the GDUFA III commitment letter. This guidance finalizes the draft guidance for industry of the same title issued on February 21, 2023.

DATES: The announcement of the guidance is published in the **Federal Register** on August 20, 2024.

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

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2023–D–0044 for ''Product-Specific Guidance Meetings Between FDA and ANDA Applicants Under GDUFA.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

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

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: David Coppersmith, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1673, Silver Spring MD 20993–0002, 301–796–9193.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Product-Specific Guidance Meetings Between FDA and ANDA Applicants Under GDUFA.'' The Generic Drug User Fee Amendments of 2012 (GDUFA I) amended the FD&C Act to authorize FDA to assess and collect user fees to provide the Agency with resources to help ensure patients have access to quality, safe, and effective generic drugs. GDUFA fee resources bring

greater predictability and timeliness to the review of generic drug applications. GDUFA has been reauthorized every 5 years to continue FDA's ability to assess and collect GDUFA fees and this user fee program has been reauthorized two times since GDUFA I, most recently in the Generic Drug User Fee Amendments of 2022 (GDUFA III). As described in the GDUFA III commitment letter applicable to this latest reauthorization, FDA agreed to performance goals and program enhancements regarding aspects of the generic drug assessment program that build on previous authorizations of GDUFA. New enhancements to the program are designed to maximize the efficiency and utility of each assessment cycle, with the intent of reducing the number of assessment cycles for ANDAs and facilitating timely access to generic medicines for American patients.

To receive approval for an ANDA submitted under section 505(j) of the FD&C Act (21 U.S.C. 355(j)), an applicant generally must demonstrate, among other things, that its proposed drug product is bioequivalent to the reference listed drug (RLD). As noted in 21 CFR 320.24, in vivo methods, in vitro methods, or both can be used to establish bioequivalence (BE). FDA recommends that applicants consult published PSGs when considering an appropriate BE study and/or other studies for a proposed drug product. PSGs provide recommendations for developing generic drug products and describe FDA's current thinking on the evidence needed to demonstrate that an ANDA is therapeutically equivalent to the specific RLD product.

As described in the GDUFA III commitment letter, FDA agreed to certain performance goals, including time frames and procedures for scheduling and conducting: (1) PSG teleconferences to provide feedback on the potential impact of a new or revised PSG on the applicant's development program; and (2) pre-submission PSG meetings and post-submission PSG meetings to provide a forum in which the applicant can discuss the scientific rationale for an approach other than the approach recommended in a new or revised PSG to ensure that the approach complies with the relevant statutes and regulations.

This guidance finalizes the draft guidance of the same title issued on February 21, 2023 (88 FR 10523). FDA considered comments received on the draft guidance as the guidance was finalized. Changes from the draft to the final guidance include updates to clarify when applicants can submit PSG teleconference and PSG meeting requests, the topics that applicants can discuss during PSG teleconferences and PSG meetings, and when applicants should utilize other pathways to seek FDA's feedback. In addition, FDA made editorial changes to improve clarity.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Product-Specific Guidance Meetings Between FDA and ANDA Applicants Under GDUFA.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information pertaining to the submissions of controlled correspondence, GDUFA III meetings related to generic drug development, and the Generic Drug User Fee Program have been approved under OMB control number 0910–0727. The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

III. Electronic Access

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

Dated: August 15, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–18636 Filed 8–19–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–P–2220]

Determination That PENNSAID (Diclofenac Sodium) Topical Solution 2%, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) has determined that PENNSAID (diclofenac sodium) Topical Solution 2%, was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Awo Archampong-Gray, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6243, Silver Spring, MD 20993–0002, 301–796–0110, *Awo.Archampong-Gray@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or

effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

PENNSAID (diclofenac sodium) Topical Solution 2%, is the subject of NDA 204623, held by Horizon Therapeutics Ireland DAC, and initially approved on January 16, 2014. PENNSAID is a nonsteroidal anti-inflammatory drug indicated for the treatment of the pain of osteoarthritis of the knees. PENNSAID (diclofenac sodium) Topical Solution 2%, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Encube Ethicals Private Limited submitted a citizen petition dated May 6, 2024 (Docket No. FDA–2024–P–2220), under 21 CFR 10.30, requesting that the Agency determine whether PENNSAID (diclofenac sodium) Topical Solution 2%, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that PENNSAID (diclofenac sodium) Topical Solution 2%, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that PENNSAID (diclofenac sodium) Topical Solution 2%, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of PENNSAID (diclofenac sodium) Topical Solution 2%, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list PENNSAID (diclofenac sodium) Topical Solution 2%, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 15, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–18615 Filed 8–19–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Updates to the Uniform Standard for Waiver of the Ryan White HIV/AIDS Program Core Medical Services Expenditure

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Request for public comment on updates to uniform standard for waiver of the Ryan White HIV/AIDS Program core medical services expenditure requirement.

SUMMARY: The Ryan White HIV/AIDS Program (RWHAP) statute of the Public Health Service Act requires that RWHAP Parts A, B, and C recipients expend 75 percent of Parts A, B, and C grant funds on core medical services for individuals who are identified with HIV/AIDS and eligible for RWHAP services under the statute, after reserving statutorily permissible amounts for administrative and clinical quality management costs. The statute also grants the Secretary authority to waive this requirement if certain factors are met. HRSA is proposing to update Policy Notice 21–01, ''Waiver of the Ryan White HIV/AIDS Program Core Medical Services Expenditure Requirement,'' pertaining to the associated data collection form to clarify applicants' proposed allocation of resources between core medical and support services.

DATES: Submit comments no later than September 19, 2024.

ADDRESSES: Written/and or electronic comments should be submitted to Division of Policy and Data, HRSA, HIV/AIDS Bureau, 5600 Fishers Lane, Rockville, MD 20857, or *RyanWhiteComments@hrsa.gov*.

FOR FURTHER INFORMATION CONTACT: Kristina Barney, Senior Public Health Policy Analyst, Division of Policy and Data, HRSA, HIV/AIDS Bureau, 5600 Fishers Lane, Rockville, MD 20857, email *RyanWhiteComments@hrsa.gov*.

SUPPLEMENTARY INFORMATION: The RWHAP statute grants the Secretary authority to waive this requirement for RWHAP Parts A, B, or C recipients if certain factors are met and a waiver request is submitted to HRSA for approval. RWHAP Parts A, B, and C core medical services waiver requests, if approved, are effective for a 1-year budget period and apply to funds awarded under the Minority AIDS Initiative.

For a core medical services waiver request to be approved, core medical services must be available and accessible, regardless of the payment source, within 30 days to all RWHAP-eligible individuals identified in the recipient's service area. The recipient may use existing, non-RWHAP resources in the service area to ensure availability and access to core medical services. Additionally, there must be no AIDS Drug Assistance Program waiting lists in the recipient's service area. Finally, a public process must be used to obtain input from impacted communities on the availability of core medical services and the decision to request the waiver. Impacted communities include clients and RWHAP-funded core medical services providers. The same method used to seek input on community needs as part of the annual priority setting and resource allocation, comprehensive planning, statewide coordinated statement of need, public planning, and/or needs assessment processes may be used to meet this requirement.

Policy Notice 21–01, ''Waiver of the Ryan White HIV/AIDS Program Core Medical Services Expenditure Requirement,'' outlines the requirements and includes the one-page ''HRSA RWHAP Core Medical Services Waiver Request Attestation Form'' that must be submitted to request a waiver.

HRSA proposes to modify Policy Notice 21–01 to reflect a new policy requiring that the proposed percentages of HIV service dollars allocated to core medical and support services be included on the waiver request form. This information will inform HRSA as to whether recipients are able to meet the statutory requirements found in sections 2604(c), 2612(b), and 2651(c) of the Public Health Service Act and will

clarify what proposed portion of funds will be allocated to core medical and support services. In response to stakeholder feedback, minor changes will also be made to the policy notice. The current policy notice is accessible at the following link: *https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pn-21-01-core-medical-services-waivers.pdf* and the proposed revised policy notice is included in this announcement. This notice provides the opportunity for public comment before implementation. In a separate notice entitled, *Ryan White HIV/AIDS Program Core Medical Services Waiver Form, OMB No. 0906–0065–Revision,* 89 FR 122, 53110–12 (June 25, 2024), HRSA seeks comment on the changes to the data collection form associated with this proposed policy notice change.

Summary of Proposed Changes: Sections 2604(c), 2612(b), and 2651(c) of the Public Health Service Act require recipients to spend not less than 75 percent of funds on core medical services after reserving statutorily permissible amounts for administrative and clinical quality management costs. HRSA intends to add a requirement to include the proposed percentages of HIV service dollars allocated to core medical and support services. This proposed change will be included as a requirement on the Ryan White HIV/AIDS Program Core Medical Services Waiver Form and will be used to clarify what portion of HIV service dollars will be allocated to core medical and support services. The section of this notice entitled ''Requesting a Waiver'' contains a description of the new information that must be included on the waiver request form. Language and editorial changes have been made throughout.

The proposed change is in addition to the underlying requirements necessary to obtain a waiver: ensuring that the state AIDS Drug Assistance Program has no waiting lists, all core medical services are available and accessible within 30 days in the jurisdiction or service area, and that the recipient has used a public process to determine the need for a waiver. HRSA will consider public comment on these changes and intends for the policy to become effective on October 1, 2024.

Waiver of the Ryan White HIV/AIDS Program Core Medical Services Expenditure Requirement

Policy Notice 21–01(Revised 10/01/24) Replaces Policy Notice 13–07

Scope of Coverage

Health Resources and Services Administration (HRSA) HIV/AIDS Bureau Ryan White HIV/AIDS Program (RWHAP) Parts A, B, and C.

Purpose of Policy Notice

This Policy Notice provides the processes and requirements for RWHAP Parts A, B, and C recipients to request waivers of the statutory requirement regarding expenditure amounts for core medical services.

The revised policy notice describes a new requirement included on the RWHAP Core Medical Services Waiver Attestation Form. It also includes various editorial changes to respond to stakeholder feedback to make the form clearer. The revised policy is effective beginning on October 1, 2024.

Background

Recipients must spend at least 75 percent of grant funds on core medical services. See Title XXVI of the Public Health Service Act (the RWHAP legislation, Part A section 2604(c), Part B section 2612(b), and Part C section 2651(c)). Grant funds include Minority AIDS Initiative funding but exclude the amounts allowable by statute for administrative and clinical quality management costs. The Secretary can waive this requirement for a recipient if: (1) there are no waiting lists for the AIDS Drug Assistance Program (ADAP), (2) core medical services are available and accessible to all HRSA RWHAP eligible individuals in the recipient's service area, and (3) a public process must be used to obtain input on the waiver request. Approved RWHAP Part A, Part B, and Part C core medical services waivers are effective for one budget period of a grant award, which is 1 year.

Requirements

A HRSA RWHAP Parts A, B, or C recipient must meet the following requirements:

(1) Core medical services must be available and accessible, regardless of the payment source, within 30 days to all HRSA RWHAP eligible individuals identified in the recipient's service area. The recipient may use existing non-RWHAP resources in the service area to ensure availability and access to core medical services.

(2) There must be no ADAP waiting lists in the recipient's service area.

(3) There must be a public process to obtain input on the waiver request. This public process must seek input from impacted communities on the availability of core medical services and the decision to request the waiver. Impacted communities include clients and RWHAP-funded core medical services providers. The same method to seek input on community needs as part of the annual priority setting and resource allocation, comprehensive planning, statewide coordinated statement of need, public planning, and/or needs assessment processes may be used.

Example of Applying the Requirement

If an RWHAP-eligible individual needs outpatient ambulatory health services, which is a core medical service, an appointment to see a provider must be available within 30 days within the recipient's service area, regardless of how that service is funded. If all core medical services are not similarly accessible and available, or if there is an ADAP waiting list, you do not qualify for a waiver.

Requesting a Waiver

To request a waiver, the Chief Elected Official, Chief Executive Officer, or a designee of either must complete and submit the HRSA RWHAP Core Medical Services Waiver Request Attestation Form (attached below) to HRSA as specified by the deadlines and methods described below.

Update to the Waiver Request Form

The form must specify the percentages of HIV service dollars, including Minority AIDS Initiative funds, the recipient proposes to allocate to core medical and support services, if the waiver is approved. Signature indicates attestations for eligibility and the requirement of documentation upon request.

No other documentation is required to be submitted with the HRSA RWHAP Core Medical Services Waiver Request Attestation Form.

Submitting Waiver Requests

RWHAP Part A and RWHAP Part C waiver requests must be submitted as an attachment with the grant application or the mandatory non-competing continuation (NCC) progress report. Waiver requests do not count towards grant application or NCC progress report page limits.

RWHAP Part B recipients may submit a waiver request prior to the submission of a grant application, with the grant application or NCC progress report as an attachment or up to 4 months after the start of the budget period for which the waiver is requested.

RWHAP Part B recipients may request a waiver for the RWHAP Part B States/Territories Formula and ADAP Formula and ADAP Supplemental Awards (X07) and/or the RWHAP Part B States/Territories Supplemental Grant Program (X08). Recipients must request each waiver separately.

Methods for Submitting Waiver Requests

Waiver requests submitted with grant applications must be submitted through *www.grants.gov.* Waiver requests submitted with the mandatory NCC progress report must be submitted through the Electronic Handbooks.

Part B recipients planning to request a waiver before or after the submission of a grant application or NCC progress report must notify their project officer who will send a Request for Information through the Electronic Handbooks.

Waiver Review and Notification Process

HRSA will review waiver requests and notify recipients of its approval or denial within 4 weeks of receipt of the request.

Approved core medical services waivers are only effective for one budget period. Approved waivers are not required to be implemented, should circumstances change. Recipients must submit a new request(s) each budget period.

BILLING CODE 4165–15–P

OMB Number: 0906-0065

HRSA Ryan White HIV/AIDS Program (RWHAP) Core Medical Services Waiver Request Attestation Form

This form is to be completed by the Chief Elected Official, Chief Executive Officer, or a designee of either. Please initial to attest to meeting each requirement after reading and understanding the corresponding explanation. Include the proposed percentages of HIV service dollars allocated to core medical and support services in the Proposed Ratio for RWHAP Core Medical and Support Services section.

Name of recipient _____

☐ **RWHAP Part A recipient** ☐ **RWHAP Part B recipient** ☐ **RWHAP Part C recipient**

☐ **Initial request** ☐ **Renewal request**

Year of request _____

REQUIREMENT	EXPLANATION
No ADAP waiting lists	By initialing here and signing this document, you attest there are no AIDS Drug Assistance Program (ADAP) waiting lists in the service area. ☐
Availability of, and accessibility to core medical services to all eligible individuals	By initialing here and signing this document, you attest to the availability of and access within 30 days to core medical services for all HRSA RWHAP eligible individuals in the service area. Such access is without regard to funding source, and without the need to spend at least 75 percent of funds remaining from your RWHAP award (after reserving statutory permissible amounts for administrative and clinical quality management costs). You also agree to provide HRSA HAB supportive evidence of meeting this requirement upon request. ☐
Evidence of a public process	By initialing here and signing this document, you attest to having had a public process during which input related to the availability of core medical services and the decision to request this waiver was sought from impacted communities, including clients and RWHAP funded core medical services providers. You also agree to provide supportive evidence of such process to HRSA HAB upon request. ☐

PROPOSED RATIO FOR RWHAP CORE MEDICAL AND SUPPORT SERVICES	
RWHAP core medical services	**RWHAP support services**
%	**%**

SIGNATURE OF CHIEF ELECTED OFFICIAL OR CHIEF EXECUTIVE OFFICER (OR DESIGNEE)

PRINT NAME

TITLE

DATE

Public Burden Statement: HRSA uses the documentation submitted in core medical services waiver requests to determine if the applicant/grant recipient meets the statutory requirements for waiver eligibility including: (1) No waiting lists for AIDS Drug Assistance Program (ADAP) services; and (2) evidence of core medical services availability within the grant recipient's jurisdiction, state, or service area to all people with HIV identified and eligible under Title XXVI of the Public Health Services Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection is 0906-0065 and it is valid until 08/31/2027. This information collection is required to obtain or retain a benefit (Ryan White HIV/AIDS Treatment Extension Act of 2009, Part A section 2604©, Part B section 2612(b), and Part C section 2651(c)). Data will be kept private to the extent required by law. Public reporting burden for this collection of information is estimated to average 0.49 hours per response, including the time for reviewing instructions, searching existing data sources, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to HRSA Information Collection Clearance Officer, 5600 Fishers Lane, Room 14N39, Rockville, Maryland, 20857 or paperwork@hrsa.gov. Please see https://www.hrsa.gov/about/508-resources for the HRSA digital accessibility statement.

Expiration Date 08/31/2027

Carole Johnson,

Administrator.

[FR Doc. 2024–18649 Filed 8–19–24; 8:45 am]

BILLING CODE 4165–15–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Training in Primary Care Medicine and Dentistry

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD or Committee) will hold one additional public meeting in the 2024 calendar year. Information about ACTPCMD, agendas, and materials for these meetings can be found on the ACTPCMD website at *https://www.hrsa.gov/advisory-committees/primarycare-dentist/meetings.* This notice is consistent with information about ACTPCMD's 2024 meetings published in the **Federal Register** on May 15, 2024, titled ''Meeting of the Advisory Committee on Training in Primary Care Medicine and Dentistry.''

DATES: The ACTPCMD meeting will be held on:

- November 15, 2024, 10:00 a.m. to 5:00 p.m. Eastern Time.

ADDRESSES: This meeting will be held by teleconference and/or a video conference platform. For updates on how the meeting will be held, visit the ACTPCMD website 20 days before the date of the meeting, where instructions for joining the meeting will be posted. For meeting information updates, go to the ACTPCMD website meeting page at *https://www.hrsa.gov/advisory-committees/primarycare-dentist/meetings.*

FOR FURTHER INFORMATION CONTACT: Shane Rogers, Designated Federal Officer, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–5260; or *SRogers@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACTPCMD provides advice and recommendations to the Secretary of Health and Human Services on policy, program development, and other matters of significance concerning the activities under section 747 of title VII of the Public Health Service (PHS) Act, as it existed upon the enactment of section 749 of the PHS Act in 1998. ACTPCMD prepares an annual report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under section 747, as well as training programs in oral health and dentistry. The annual report is submitted to the Secretary of Health and Human Services as well as the Chair and ranking members of the Senate Committee on Health, Education, Labor and Pensions and the House of Representatives Committee on Energy and Commerce. ACTPCMD also develops, publishes, and implements performance measures and guidelines for longitudinal evaluations of programs authorized under title VII, part C of the PHS Act, and recommends appropriation levels for programs under this Part.

Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change. For the November 15, 2024, meeting, agenda items may include, but are not limited to, discussion of recommendations for the Committee's 23rd report, as well as exploratory topic discussions for the Committee's 24th report. Refer to the ACTPCMD website listed above for all current and updated information concerning the November ACTPCMD meeting, including the agenda and meeting materials that will be posted 20 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACTPCMD should be sent to Shane Rogers using the contact information above at least 5 business days before the meeting date.

Individuals who need special assistance or another reasonable accommodation should notify Shane Rogers using the contact information listed above at least 10 business days before the November 15, 2024, meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–18553 Filed 8–19–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Center for Advancing Translational Sciences Advisory Council.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and

need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/.*

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 Center for Advancing Translational Sciences Advisory Council.

Date: September 19, 2024.

Closed: 9:00 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, NCI Shady Grove, Seminar 110, 9609 Medical Center Drive, Rockville, MD 20850 (In Person and Virtual Meeting).

Open: 11:15 a.m. to 5:30 p.m.

Agenda: Report from the Center Director, Special Topic Presentation, Program Updates, Clearance of Concepts.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, NCI Shady Grove, Seminar 110, 9609 Medical Center Drive, Rockville, MD 20850 In Person and Virtual Meeting.

Contact Person: Anna L. Ramsey-Ewing, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, National Institutes of Health, 9609 Medical Center Drive, Room 1E454, Rockville, Maryland 20850, *anna.ramseyewing@nih.gov*, (301) 435–0809.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice no later than 15 days after the meeting at *NCATSCouncilInput@mail.nih.gov.* The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://ncats.nih.gov/advisory/council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18560 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Institute Council of Research Advocates.

The meeting will be held as a hybrid meeting and will be open to the public as indicated below. 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 can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/.*

Name of Committee: National Cancer Institute Council of Research Advocates (NCRA).

Date: September 18, 2024.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: Welcome and Chairwoman's Remarks, NCI Director's Update, NCI Updates, and Legislative Update.

Place: National Institutes of Health, Porter Neuroscience Research Center, Building 35A, Room 640, 35 Convent Drive, Bethesda, MD 20892 (In Person and Virtual Meeting).

Contact Person: Amy Williams, Director, NCI Office of Advocacy Relations, National Cancer Institute, NIH, 31 Center Drive, Building 31, Room 10A28, Bethesda, MD 20892, (301) 496–9723, *williaam@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://deainfo.nci.nih.gov/advisory/ncra/ncra.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18559 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of Ruth L. Kirschstein Institutional National Research Service Award.

Date: September 9, 2024.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, Extramural Project

Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, MSC 6902, Bethesda, MD 20817, (301) 443–0800, *bbuzas@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Clinical, Treatment and Health Services Research Study Section.

Date: October 8, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2109, MSC 6902, Bethesda, MD 20817, (301) 443–8599, *espinozala@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Study Section.

Date: October 22, 2024.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892, (In-Person and Virtual).

Contact Person: Anna Ghambaryan, M.D., Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2120, MSC 6902, Bethesda, MD 20892, 301–443–4032, *anna.ghambaryan@nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Neuroscience and Behavior Study Section.

Date: October 24, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, MSC 6902, Bethesda, MD 20892, 301–443–0800, *bbuzas@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Study Section.

Date: October 29, 2024.

Time: 9:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892, (In-Person and Virtual).

Contact Person: Anna Ghambaryan, M.D., Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2120, MSC 6902, Bethesda, MD 20892, (301) 443–4032, *anna.ghambaryan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.273, Alcohol Research Programs, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18557 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 22–104: Fogarty NCD–LIFESPAN Panel.

Date: September 10, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jeanne M. McCaffery, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3854, *jeanne.mccaffery@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–22–079: High-End Instrumentation (HEI) Grant Program.

Date: September 24, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Krystyna H. Szymczyk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–4198, *szymczykk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Biomedical Imaging and Metabolism Instrumentation S10 Grant Programs.

Date: September 25, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven Anthony Ripp, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, (301) 594–3010, *steven.ripp@nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Cellular Signaling and Regulatory Systems Study Section.

Date: September 26–27, 2024.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18563 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract

proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases, Special Emphasis Panel; Interventional Agents Chemistry Services (IACS) Services, Task Area C (N01).

Date: September 6, 2024.

Time: 2:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892, (240) 669–5178, *saadisoh@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 14, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18585 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Developmental Biology Study Section.

Date: October 25, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6710 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jolanta Maria Topczewska, Ph.D., Scientific Review Branch (SRB), Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20817, (301) 451–0000, *jolanta.topczewska@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 14, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18584 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Center for Advancing Translational Sciences Special Emphasis Panel, September 17, 2024, 08:30 a.m. to September 18, 2024, 03:00 p.m., NIH, 9609 Medical Center Drive, Rockville, MD 20892 which was published in the **Federal Register** on August 07, 2024, 89 FR 64470.

Amendment to change to meeting format from face-to-face to video assisted meeting and to change the location from Gaithersburg Marriott Washingtonian Center, Gaithersburg, MD to 9609 Medical Center Drive, Rockville, MD. The meeting is closed to the public.

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18562 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute Of Mental Health, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Mental Health.

Date: September 24–26, 2024.

Time: September 24, 2024, 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (In Person and Virtual Meeting).

Time: September 25, 2024, 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (In Person and Virtual Meeting).

Time: September 26, 2024, 9:00 a.m. to 3:40 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (In Person and Virtual Meeting).

Contact Person: Jennifer E. Mehren, Ph.D., Scientific Advisor, Division of Intramural Research Programs, National Institute of Mental Health, National Institutes of Health, 35A Convent Drive, Bethesda, MD 20892–3747, 301–496–3501, *mehrenj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 15, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18613 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Neurological Sciences Training Initial Review Group; Neurological Sciences Training 3 Study Section NST–3 Study Section.

Date: October 17, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Lataisia Cherie Jones, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *lataisia.jones@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL Initiative; Analgesic discovery.

Date: October 18, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Abhignya Subedi, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *abhi.subedi@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; JSPTPN T32 applications review meeting.

Date: November 4–5, 2024.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Abhignya Subedi, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *abhi.subedi@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: August 14, 2024.

David W Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18555 Filed 8–19–24; 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 Facilitating the Transition to Independence Study Section Park_10/28–29/2024.

Date: October 28–29, 2024.

Time: 8:00 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, (In-person Meeting).

Contact Person: Joshua Park, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 5601 Fishers Lane, Rm 2W200, Rockville, MD 20852, (301) 496–6208, *joshua.park4@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 14, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18550 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Center for Advancing Translational Sciences Special Emphasis Panel; Understudied Proteins Associated with Rare Diseases (R03) Review.

Date: November 6–7, 2024.

Time: 9:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 9609 Medical Center Drive, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Carol (Chang-Sook) Kim, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, National Center for Advancing Translational Sciences, National Institutes of Health, 9609 Medical Center Drive, Suite 1E504, Bethesda, MD 20892, (301) 402–1744, *carol.kim@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18564 Filed 8–19–24; 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; Organismal aging, senescence and BBB in neurodegeneration.

Date: October 21, 2024.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ivan Tadeu Rebustini, Ph.D., Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, RM 100, Rockville, MD 20852, (301) 555–1212, *ivan.rebustini@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 14, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18551 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–23–281: Mammalian Models for Translational Research.

Date: September 20, 2024.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804 Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Science of Implementation in Health and Healthcare Study Section.

Date: September 25–26, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion 4300 Military Road, NW Washington, DC 20015 (In-Person Meeting).

Contact Person: Wenjuan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154 Bethesda, MD 20892 (301) 480–8667, *wangw22@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 14, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18549 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: September 6, 2024.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Room 3172, Bethesda, MD 20892 (Video Assisted Meeting).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Room 3172, Bethesda, MD 20892, (301) 402–8837, *barbara.thomas@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18561 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Framingham Heart Study Contract Review.

Date: September 27, 2024.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kazuyo Kegan, AB, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–T, Bethesda, MD 20892, (301) 402–1334, *kazuyo.kegan@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 15, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18612 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Study Section Function.

Date: October 15–16, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6710 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Moushumi Paul, Ph.D., Scientific Review Branch (SRB), *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20817, (301) 496–3596, *moushumi.paul@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 14, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18583 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Partially Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Mental Health Council.

This will be a hybrid meeting held in-person and virtually and will be partially open to the public as indicated below. Individuals who plan to attend must register. To register please visit *https://www.nimh.nih.gov/about/advisory-boards-and-groups/namhc.* The registration link will be active one month before the scheduled meeting. Those who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will also be videocast and can be accessed from the NIH Videocasting and Podcasting website (*https://videocast.nih.gov/*).

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/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: September 17–18, 2024.

Open: September 17, 2024, 12:30 p.m. to 5:00 p.m.

Agenda: Presentation of the NIMH Director's Report and Discussion of NIMH programs.

Place: National Institutes of Health, Neuroscience Center, Rooms 1145 & 1155, 6001 Executive Boulevard, Rockville, MD 20852 (In Person and Virtual).

Closed: September 18, 2024, 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, Rooms 1145 & 1155, 6001 Executive Boulevard, Rockville, MD 20852 (In Person and Virtual).

Contact Person: Tracy Lynn Waldeck, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, NIH, DHHS, Neuroscience Center, 6001 Executive Boulevard, Bethesda, MD 20892, (301) 480–6833, *tracy.waldeck@nih.gov*.

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 15, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18618 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship Review: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: September 5, 2024.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Courtney Elaine Watkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3093, *courtney.watkins2@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–22–233: Time-Sensitive Opportunities for Health Research.

Date: September 6, 2024.

Time: 9:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jacinta Bronte-Tinkew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 806–0009, *Jacinta.bronte-tinkew@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18556 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism.

Date: September 3–4, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5625 Fishers Lane, Rockville, MD 20852, (Virtual Meeting).

Contact Person: David Lovinger, Ph.D., Scientific Director, Laboratory for Integrative Neuroscience, Section on Synaptic Pharmacology, National Institute of Alcohol Abuse and Alcoholism, 5625 Fishers Lane, Room TS–11, Rockville, MD 20852, (301) 443–2445, *lovindav@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.niaaa.nih.gov/research/division-intramural-clinical-and-biological-research/office-scientific-director,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18554 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[CIS No. 2779–24; DHS Docket No. USCIS–2024–0010]

RIN 1615–ZC09

Implementation of Keeping Families Together

AGENCY: Department of Homeland Security.

ACTION: Notice of implementation of the Keeping Families Together process.

SUMMARY: This notice announces the U.S. Department of Homeland Security's (DHS) implementation of the Keeping Families Together process for certain noncitizen spouses and stepchildren of U.S. citizens who are present in the United States without admission or parole to request parole in place under existing statutory authority. Granting parole in place, on a case-by-case basis, to eligible noncitizens under this process will achieve the significant public benefit of promoting the unity and stability of families, increasing the economic prosperity of American communities, strengthening diplomatic relationships with partner countries in the region, reducing strain on limited U.S. government resources, and furthering national security, public safety, and border security objectives.

DATES: DHS will begin using the Form I–131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens, for this process on August 19, 2024.

FOR FURTHER INFORMATION CONTACT: Rená Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.

SUPPLEMENTARY INFORMATION:

I. Background

Family unity is a bedrock objective of the U.S. immigration system. Nearly 60 years ago, the Immigration and Nationality Act of 1965, a foundation of modern U.S. immigration law, enshrined as a core principle the importance of promoting the ability of U.S. citizens to unify with their relatives—a principle that endures to this day.[1] Yet, amidst growing demands and challenges, including chronic underfunding of our immigration [2] and visa processing backlogs compounded by the COVID–19 pandemic, our

[1] Public Law 89–236 (1965).

[2] For example, in the Fiscal Year (FY) 2024 President's Budget, USCIS requested $865 million in appropriated funding, but Congress only provided $281 million. *See* Department of Homeland Security U.S. Citizenship and Immigration Services Budget Overview, Fiscal Year 2024 Congressional Justification, available at *https://www.dhs.gov/sites//default/files//2023-03/U.S.%20CITIZENSHIP/%20AND%20IMMIGRATION%20SERVICES_Remediated.pdf* (last visited July 16, 2024); Department of Homeland Security Appropriations Act, 2024, Public Law 118–47, div. C (2024); Department of Homeland Security U.S. Citizenship and Immigration Services Budget Overview, Fiscal Year 2025 Congressional Justification, available at *https://www.dhs.gov/sites/default/files/2024-04/2024_0325_us_citizenship_and_immigration_services.pdf* (last visited July 16, 2024). The February 2024 Bipartisan Border Agreement would have provided $20 billion in funding for border management, including $4 billion to USCIS.

immigration system has often been challenged in its ability to fully achieve this core principle. U.S. citizens and their noncitizen family members have in many cases faced lengthy processing backlogs and potential years-long separation to access immigration benefits intended by Congress to promote family unity.

DHS estimates that there are approximately 765,000 noncitizens in the United States who are married to U.S. citizens and lack lawful immigration status.[3] Estimates indicate that the median time these noncitizens have been in the United States is 20 years, and they collectively live with more than 2.5 million U.S. citizen family members, raising and caring for more than 1.6 million U.S. citizen children.[4] While U.S. immigration law provides noncitizens who are beneficiaries of approved immigrant visa petitions [5] filed by their U.S. citizen spouses the opportunity to apply for adjustment of status to that of a lawful permanent resident (LPR) while remaining in the United States, there are certain requirements to adjust status that prevent many noncitizens from availing themselves of this benefit.[6] In particular, to apply for LPR status while in the United States, an applicant generally must have been ''inspected and admitted or paroled'' into the United States.[7]

DHS estimates that more than two-thirds of noncitizens without lawful immigration status who are married to U.S. citizens [8] are present in the United States without admission or parole, and as a result, are generally not eligible for adjustment of status.[9] They must therefore depart the United States and seek an immigrant visa at a U.S. embassy or consulate abroad. However, if they choose to depart the United States, they face uncertainty about whether they will be granted an immigrant visa and be able to return to the United States.[10] The noncitizen also must remain abroad while waiting for their immigrant visa application to be processed at a U.S. embassy or consulate and any necessary waiver applications to be processed by U.S. Citizenship and Immigration Services (USCIS), and as a result, they may be separated from their U.S. citizen family members for months or years.[11] The length and uncertainty of the process, along with the prospect of either separating from their U.S. citizen family members or uprooting them to travel abroad creates a disincentive and makes it difficult for noncitizens to pursue LPR status despite their eligibility to apply.

Recognizing the harms that families and communities face every day as a result of flaws in the U.S. immigration system, President Joseph R. Biden in 2021 directed DHS and other agencies to ''identify barriers that impede access to immigration benefits and fair, efficient adjudications of these benefits and make recommendations on how to remove these barriers, as appropriate and consistent with applicable law.'' [12] In response to the President's directive, DHS and its immigration components, including USCIS, have taken several steps to promote accessibility and increase efficiency in the immigration system.[13]

On June 18, 2024, President Biden announced that DHS would take action to preserve the unity of U.S. citizens and their noncitizen spouses and noncitizen stepchildren who currently cannot access LPR status without first departing the United States.[14] In furtherance of the President's directive, DHS is now establishing a process, through its existing discretionary parole authority under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A),[15] for DHS to consider, on a case-by-case basis, parole in place requests filed by certain noncitizen spouses and stepchildren of U.S. citizens. If granted parole in place, these noncitizens, if otherwise eligible, could apply for adjustment of status to that of an LPR, rather than having to depart the United States to pursue an immigrant visa, as the parole in place would satisfy the ''inspected and admitted or paroled'' requirement.[16]

This process does not change or eliminate the eligibility criteria for adjustment of status to that of an LPR. Noncitizens who are granted parole in place under this process will still have to satisfy all other statutory and regulatory requirements when applying to adjust status to that of an LPR, including that they have an approved immigrant visa petition based on a bona fide relationship to a U.S. citizen, are admissible to the United States, and merit a grant of adjustment of status as

[3] U.S. Dep't of Homeland Security, Office of Homeland Security Statistics (OHSS) analysis of OHSS Estimates of the Unauthorized Immigrant Population Residing in the United States: Jan. 2018–Jan. 2022 (''OHSS Analysis''), tbl. 3.

[4] *Id.* tbls. 4, 5. Estimated data shows that the median amount of time the entire population of noncitizen spouses of U.S. citizens has been in the United States is 20 years; the median time the PIP-eligible population of noncitizen spouses of U.S. citizens (where the noncitizen spouses have been in the United States for at least 10 years) has been in the United States is 23 years.

[5] This is filed on Form I–130, Petition for Alien Relative.

[6] Adjustment of status is the process by which certain noncitizens may seek LPR status while remaining in the United States, as opposed to consular processing, the process by which certain noncitizens seek an immigrant visa at a United States embassy or consulate abroad and then are admitted to the United States as an LPR at a port of entry. *See* INA sec. 245(a), 8 U.S.C. 1255(a); *cf.* INA secs. 221–222, 8 U.S.C. 1201–1202 (immigrant visa applications).

[7] INA sec. 245(a), 8 U.S.C 1255(a).

[8] OHSS Analysis, *supra* note 3, tbl. 3.

[9] INA sec. 245(a), 8 U.S.C. 1255(a).

[10] For most of these noncitizens, their departure to pursue consular processing and seeking admission through the application of an immigrant visa makes them inadmissible, and seeking of admission through the application for an immigrant visa within three years from their departure (if they accrued more than 180 days but less than one year of unlawful presence in the United States during a single stay), or within ten years from their departure or removal (of departure or removal (if they accrued one year or more of unlawful presence in the United States during a single stay)), will make them inadmissible under INA section 212(a)(9)(B)(i), 8 U.S.C. 1182(a)(9)(B)(i). *See, e.g., Matter of Duarte-Gonzalez,* 28 I. & N. Dec. 688, 689–90 (BIA 2023); *Matter of Rodarte-Roman,* 23 I. & N. Dec. 905, 908–10 (BIA 2006) (holding that the 3-year and 10-year unlawful presence bars are not triggered unless and until the noncitizen departs from the United States). This ground of inadmissibility may be waived, but approval of such a waiver is discretionary and requires applicants to ''establish [ ] . . . that the refusal of [the applicant's] admission . . . would result in extreme hardship to the citizen or [LPR] spouse or parent'' of the applicant. INA sec. 212(a)(9)(B)(v), 8 U.S.C. 1182(a)(9)(B)(v).

[11] As discussed in greater detail in this notice, the provisional waiver process through the Form I–601A, Application for Provisional Unlawful Presence Waiver, permits certain noncitizens to apply for a provisional waiver of the unlawful presence grounds of inadmissibility under INA section 212(a)(9)(B)(v), 8 U.S.C. 1182(a)(9)(B)(v), prior to their departure from the United States. While an important mechanism, the Form I–601A provisional waiver process has become significantly backlogged in recent years, still requires the noncitizen to depart and remain separated from their U.S. citizen relatives during consular processing, and does not provide a guarantee that an immigrant visa will ultimately be granted. *See* 8 CFR 212.7(e) (describing the provisional unlawful presence waiver process).

[12] Exec. Order No. 14012, *Restoring Faith in Our Legal Immigration System and Strengthening Integration and Inclusion Efforts for New Americans,* 86 FR 8277 (Feb. 5, 2021).

[13] *See* USCIS, Completing an Unprecedented 10 Million Immigration Cases in Fiscal Year 2023, USCIS Reduced Its Backlog for the First Time in Over a Decade (Feb. 9, 2024), *https://www.uscis.gov/EOY2023;* USCIS Fiscal Year 2022 Progress Report (Dec. 2022), *www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf.*

[14] The White House, *FACT SHEET: President Biden Announces New Actions to Keep Families Together,* June 18, 2024, available at *https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/18/fact-sheet-president-biden-announces-new-actions-to-keep-families-together/.*

[15] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A) (''The [Secretary] may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States . . .'').

[16] *See* Section II.B. of this notice for additional information on parole in relation to adjustment of status.

a matter of discretion.[17] Eligibility for a family-based immigrant visa petition (Form I–130, Petition for Alien Relative),[18] and application to adjust status to that of an LPR (Form I–485, Application to Register Permanent Residence or Adjust Status), will be determined in a distinct and separate process from the parole in place adjudication.

This process will be available to certain noncitizen spouses of U.S. citizens who are present in the United States without admission or parole; who have been continuously physically present in the United States for a minimum of ten years as of June 17, 2024 (that is, continuously physically present since June 17, 2014 and through the date of filing the request for parole); who have a legally valid marriage to a U.S. citizen as of June 17, 2024; who have no disqualifying criminal history;[19] who do not pose a threat to national security, public safety, or border security; and who merit parole in place as a matter of discretion. Certain noncitizen stepchildren of U.S. citizens may also request parole in place under this process, provided that they have been continuously physically present in the United States without admission or parole since June 17, 2024 through the date of filing, have no disqualifying criminal history and do not pose a threat to national security or public safety, meet the INA's definition and requirements of a stepchild[20] of a U.S. citizen, and merit parole in place as a matter of discretion.

Only noncitizens who are ''applicants for admission'' to the United States may be eligible for parole.[21] Noncitizens who lack lawful status but were inspected and admitted to the United States are not eligible for parole.[22] This parole in place process is available specifically to noncitizens who are present in the United States without admission or parole and who remain applicants for admission. Requests for parole in place under this process will be considered on a case-by-case basis in the exercise of discretion. Positive and negative discretionary factors will be considered when determining whether to grant parole in place to a noncitizen, based on significant public benefit or urgent humanitarian reasons. DHS estimates that 500,000 noncitizen spouses and 50,000 noncitizen stepchildren of U.S. citizens may meet the requirements to request parole in place under this process.[23]

As described elsewhere in this **Federal Register** notice (notice), the authority to parole applicants for admission ''in place''—*i.e.,* while the noncitizen is present within the United States without having been admitted—is consistent with DHS's longstanding interpretation of its authorities, and DHS continues to believe that it reflects the best reading of the statute.[24] The parole authority has been used for over 15 years in the specific context of preserving family unity for military families.[25] In 2010, USCIS provided guidance to its officers on considering parole in place requests submitted by noncitizen family members of U.S. military service members, which enables them to adjust status without leaving the United States,[26] an authority Congress legislatively reaffirmed in 2019.[27] Congress has also expressed support in legislation for the use of DHS's parole authority in certain instances as a discretionary tool where justified for urgent humanitarian reasons or significant public benefit.[28]

As explained more fully in Section IV of this notice, the Secretary of Homeland Security's (''Secretary'') exercise of the parole authority in this manner will provide a significant public benefit to the United States, including to

[17] *See* INA sec. 245(a), (c), 8 U.S.C. 1255(a), (c); 8 CFR part 245.

[18] And in the case of certain widows or widowers, where eligible as described in this notice, Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant.

[19] Noncitizens who have been convicted of serious offenses, such as felonies, will be ineligible for this process. *See* Section V.A. of this notice for additional detail on disqualifying criminal history.

[20] *See* INA sec. 101(b)(1), 8 U.S.C. 1101(b)(1).

[21] *See* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A); *see also* INA sec. 235(a)(1), 8 U.S.C. 1225(a)(1) (''An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.'').

[22] Noncitizens who are immediate relatives of a U.S. citizen and were admitted to the United States on a valid nonimmigrant visa but have remained in the United States beyond the period of stay authorized will generally meet the ''inspected and admitted or paroled'' requirement for adjustment of status without the need for parole in place. *See* INA sec. 245(a), 8 U.S.C. 1255(a); INA sec. 245(c)(2), 8 U.S.C. 1255(c)(2). Similarly, noncitizens who were paroled into the United States on or after their last arrival would also meet this requirement.

[23] OHSS Analysis, *supra* note 3, tbl. 3.

[24] *See, e.g.,* Memorandum from Paul W. Virtue, INS General Counsel, to INS officials, *Authority to Parole Applicants for Admission Who Are Not Also Arriving Aliens,* Legal Op. No. 98–10, 1998 WL 1806685 (Aug. 21, 1998), *superseded in part on other grounds by* Memorandum from Gus P. Coldebella, DHS General Counsel, to DHS officials, *Clarification of the Relation Between Release under Section 236 and Parole under Section 212(d)(5) of the Immigration and Nationality Act* (Sept. 28, 2007) (''Coldebella Memo''), available at *https://www.uscis.gov/sites/default/files/document/legal-docs/Coldebella_Memo.pdf; see also, e.g., Ortega-Cervantes* v. *Gonzales,* 501 F.3d 1111, 1118 (9th Cir. 2007) (discussing 1998 INS General Counsel Memo and 1999 INS Cuban parole policy, and stating that ''[w]e see nothing [in the INA] that would preclude the government from paroling . . . into the United States under § 1182(d)(5)(A)'' noncitizens ''who are currently present in the United States but who were not inspected upon arrival at a port of entry'' and that ''[t]he [INS] General Counsel's memorandum is consistent with our conclusion . . . that there is no per se bar on paroling unlawful entrants into the United States pursuant to § 1182(d)(5)(A)'').

[25] *Immigration Needs of America's Fighting Men and Women, Hearing Before the Subcomm. on Immigr., Citizenship, Refugees, Border Sec., & Int'l L. of the Comm. on the Judiciary, H.R.,* 110th Cong. 15 (2008) (testimony of Margaret Stock, Attorney and Lieutenant Colonel, Military Police Corps, United States Army Reserve).

[26] While the USCIS policy memorandum articulating the use of parole in place for military family members was issued in 2013, as a matter of practice, USCIS has been issuing parole in place for members of this population since 2010. Making this process available only to certain spouses and stepchildren of U.S. citizens is consistent with past sparing uses of parole in place. *See id.* DHS continues to view use of parole in place as consistent with the best reading of the statute, as described in section II in this notice. For reasons discussed throughout this notice, making it available to this population also is a better practice than retaining the status quo. *See* USCIS Policy Memorandum, PM–602–0091, *Parole of Spouses, Children and Parents of Active Duty Members of the U.S. Armed Forces, the Selected Reserve of the Ready Reserve, and Former Members of the U.S. Armed Forces or Selected Reserve of the Ready Reserve and the Effect of Parole on Inadmissibility under Immigration and Nationality Act sec. 212(a)(6)(A)(i)* (Nov. 15, 2013) (''USCIS Military Parole in Place Memorandum''), *available at https://www.uscis.gov/sites/default/files/document/memos/2013-1115_Parole_in_Place_Memo_.pdf, superseded in part by* USCIS Policy Memorandum, PM–602–1104, *Discretionary Options for Designated Spouses, Parents, and Sons and Daughters of Certain Military Personnel, Veterans, and Enlistees* (Nov. 23, 2016), *available at https://www.uscis.gov/sites/default/files/document/memos/PIP-DA_Military_Final_112316.pdf.*

[27] *See* National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92, sec. 1758 (2019) (8 U.S.C. 1182 note) (NDAA 2020) (''the importance of the parole in place authority of the Secretary of Homeland Security is reaffirmed'').

[28] *See, e.g.,* Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990, Public Law 101–167, sec. 599E (8 U.S.C. 1255 note) (authorizing granting permanent residence to parolees from the Soviet Union, Vietnam, Laos, and Cambodia); Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, div. C, sec. 646 (8 U.S.C. 1255 note) (providing for adjustment of status for noncitizens from Poland and Hungary who had been denied refugee status but who had been ''inspected and granted parole into the United States''); NDAA 2020, sec. 1758, *supra* note 27 (expressing congressional support for an ongoing parole program for relatives of U.S. military members and considering in each case-by-case determination whether parole would advance family unity that would constitute a significant public benefit); Extending Government Funding and Delivering Emergency Assistance Act of 2021, Public Law 117–43, sec. 2502 (8 U.S.C. 1101 note) (providing refugee benefits to Afghans paroled under INA section 1182(d)(5) and funds to support those benefits); Ukraine Supplemental Appropriations Act of 2022, Public Law 117–128, sec. 401 (8 U.S.C. 1101 note) (providing benefits to Ukrainians paroled under INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5) and funds to support those benefits).

the impacted U.S. citizens, noncitizens, their families, and their communities at large. *First,* it will promote family unity by enabling U.S. citizen spouses and children to remain with their noncitizen family members while their noncitizen family members apply for adjustment of status to that of an LPR, thus promoting stability and preventing avoidable disruptions to these families. *Second,* it will advance U.S. economic and labor interests by enabling paroled noncitizens to work lawfully in the United States and contribute economically to their families and communities.[29] *Third,* it will further critical U.S. diplomatic interests and U.S. foreign policy objectives of managing migration, increasing economic stability, and fostering security in the United States and in partner countries in the region. *Fourth,* it will preserve limited resources across U.S. government agencies that may otherwise be expended on consular processing and removal proceedings. *Fifth,* it will further national security, public safety, and border security objectives by encouraging noncitizens to provide information for background and security checks.

II. Parole Authority and Existing Family Unity Parole Processes

A. Parole Authority

The Secretary, and those other officials as designated by the Secretary,[30] have the discretionary authority under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), to parole any applicant for admission ''into the United States temporarily under such conditions as [the Secretary] may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.''

DHS's parole authority extends to noncitizens inside the United States who have not been ''admitted'' as defined in the INA through a practice known as ''parole in place.'' [31] Parole is available to an ''applicant for admission,'' which the INA defines in relevant part as ''[a]n alien present in the United States who has not been admitted or who arrives in the United States.'' [32] Because the INA creates a distinct meaning for ''admission,'' noncitizens who have entered the United States without having been ''admitted'' are still considered ''applicants for admission,'' even though they are physically inside the United States, and may be paroled in accordance with INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A). Longstanding DHS legal opinions have affirmed the availability of parole in place under U.S. immigration law, as discussed elsewhere in this notice.[33]

Parole is neither an admission of the noncitizen to the United States nor a determination of admissibility, and a parolee remains an applicant for admission during the period of parole in the United States.[34] DHS sets the duration of the period of parole based on the purpose for granting the parole request and may also impose conditions on parole.[35] DHS may terminate parole in its discretion at any time.[36] By regulation, parolees may apply for and be granted employment authorization to work lawfully in the United States during their period of parole.[37] While in a period of parole, noncitizens do not accrue unlawful presence for purposes of inadmissibility under INA sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I), 8 U.S.C. 1182(a)(9)(B)(i) and 1182(a)(9)(C)(i)(I).[38]

The parole authority has long been interpreted to allow for designation of specific groups of noncitizens for whom parole should be favorably considered as furthering a significant public benefit or for urgent humanitarian reasons, as long as the parole of each noncitizen within the group furthers such significant public benefit or addresses such urgent humanitarian reasons, as determined on a discretionary, case-by-case basis.[39] Congress has repeatedly expressed support in legislation for the use of DHS's parole authority to benefit individuals falling within particular groups.[40]

B. Parole in Relation to Adjustment of Status Eligibility

To be eligible for adjustment of status, an applicant generally must, among other requirements, have been ''inspected and admitted or paroled into the United States.'' [41] A grant of parole, including parole in place, under INA

[29] *See* Economic Analysis section in this notice.

[30] *See* Delegation to the Bureau of Citizenship and Immigration Services (Delegation No. 0150.1, Sec. II(O)) (June 5, 2003) (vesting parole authority in USCIS through its Director and subordinate officers).

[31] *See* INA sec. 101(a)(13)(A), 8 U.S.C. 1101(a)(13)(A),) (defining the terms ''admission'' and ''admitted'' as ''the lawful entry of the alien into the United States after inspection and authorization by an immigration officer''); INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5); *see also* USCIS Policy Manual, Volume 7, Adjustment of Status, Part B, 245(a) Adjustment, Chapter 2, Eligibility Requirements, Section 3, Parole [7 USCIS PM B.2 (A)(3)] (''Parole in Place: Parole of Certain Noncitizens Present Without Admission or Parole''), available at *https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2* (last updated July 16, 2024).

[32] *See* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A); INA sec. 235(a)(1), 8 U.S.C. 1225(a)(1) (''An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of [the INA] an applicant for admission. A noncitizen placed in removal proceedings pursuant to INA sec. 240, 8 U.S.C. 1229a, may also be an applicant for admission, and such an individual could be considered for this parole in place process even if released from custody under INA sec. 236(a), 8 U.S.C. 1226(a), as long as they have not been admitted. *See* INA sec. 240(a)(2), 8 U.S.C. 1229a(a)(2) (''An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 1182(a) of this title. . .'').

[33] *See supra* note 24 and Section II.C of this notice.

[34] INA sec. 101(a)(13)(B), 8 U.S.C. 1101(a)(13)(B); INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[35] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[36] 8 CFR 212.5(e) (providing that a noncitizen's parole may terminate automatically or upon written notice). In addition, neither the denial of a parole in place request nor a parole termination determination is subject to judicial review. *See* INA sec. 242(a)(2)(B)(ii), 8 U.S.C. 1252(a)(2)(B)(ii); *Bolante* v. *Keisler,* 506 F.3d 618, 621 (7th Cir. 2007); *Samirah* v. *O'Connell,* 335 F.3d 545, 549 (7th Cir. 2003); *see also Vazquez Romero* v. *Garland,* 999 F.3d 656, 665 (9th Cir. 2021) (''We have previously concluded that the jurisdiction-stripping provision of [8 U.S.C.] 1252(a)(2)(B)(ii) applies to discretionary parole decisions under sec. 1182(d)(5).'' (citing *Hassan* v. *Chertoff,* 593 F.3d 785, 790 (9th Cir. 2010))).

[37] 8 CFR 274a.12(c)(11).

[38] INA sec. 212(a)(9)(B)(ii), 8 U.S.C. 1182(a)(9)(B)(ii) (''[A]n alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.'').

[39] *See infra* notes 65–72 and Section II.D. of this notice for a discussion of Existing Family Unity Parole Policies; *see also, e.g., Reno* v. *Flores,* 507 U.S. 292, 313–14 (1993) (holding that a statute requiring ''individualized determination[s]'' does not prevent immigration authorities from using ''reasonable presumptions and generic rules''); *Fook Hong Mak* v. *INS,* 435 F.2d 728, 730 (2d Cir. 1970) (upholding INS's authority to ''determine[ ] certain conduct to be so inimical to the statutory scheme that all persons who have engaged in it shall be ineligible for favorable consideration'' and observing that there is no legal principle forbidding an agency that is ''vested with discretionary power'' from determining that it will not use that power ''in favor of a particular class on a case-by-case basis''); *cf.* INA sec. 212(d)(5)(B), 8 U.S.C. 1182(d)(5)(B) (providing that DHS may parole a noncitizen determined to be a refugee only if DHS ''determines that compelling reasons in the public interest *with respect to that particular alien* require that the alien be paroled into the United States rather than be admitted as a refugee'' (emphasis added)).

[40] *See supra* note 28.

[41] INA sec. 245(a); 8 U.S.C. 1255(a). To apply for adjustment of status under INA sec. 245(a), the noncitizen must also have an immigrant visa ''immediately available to him'' or her at the time of filing. INA sec. 245(a)(3), 8 U.S.C. 1255(a)(3). Because there is no numerical limit on immigrant visas for spouses of U.S. citizens, *see* INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i), immigrant visas are immediately available to them upon approval of a Form I–130. *See* 8 CFR 245.2(a)(2)(i)(B). Cuban nationals who are paroled also may be eligible for adjustment of status under the Cuban Adjustment Act, Public Law 89–732 (1966) (8 U.S.C. 1255 note), without regard to the availability of an immigrant visa.

section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), satisfies this threshold requirement.[42]

The noncitizen must also satisfy all other requirements for adjustment of status, including establishing that they are not inadmissible under any applicable grounds,[43] and that they merit a favorable exercise of discretion including not being a threat to public safety or national security.[44]

C. Existing Parole in Place Processes

Parole in place is currently used for certain noncitizens to promote family unity and remove barriers to adjustment of status. As federal courts, including the Supreme Court, have long recognized, ''parole creates something of legal fiction,'' as a paroled noncitizen is allowed to be present in the United States temporarily but remains an ''applicant for admission'' as defined in INA 235(a)(1), 8 U.S.C. 1225(a)(1), pending the granting of relief from removal such as asylum or adjustment of status.[45] Through this well-established legal fiction, the statute has long authorized the parole of applicants for admission ''into the United States''—whether in the form of temporary release from immigration custody or otherwise—even after they have crossed into the United States and are already physically present in the country.[46]

Congress preserved this legal fiction in IIRIRA while expanding the legal concept of an ''applicant for admission.'' Congress provided that any noncitizen who is present in the United States without admission ''shall be deemed . . . an applicant for admission,''[47] and that although the Secretary may parole ''any [noncitizen] applying for admission,'' such parole does not constitute an admission, and the parolee remains an applicant for admission.[48] Thus, ''even noncitizens already physically present in the United States'' after having entered without inspection remain applicants for admission unless and until they are admitted or removed and ''may be eligible for humanitarian or public benefit parole under [section 212(d)(5)(A) of the INA] by virtue of their status as applicants for admission.''[49] Put differently, because noncitizens physically present without authorization are deemed ''applicants for admission,'' they are therefore ''applying for admission to the United States,''[50] and thus eligible under the parole statute for parole ''into the United States.''[51]

DHS, like the former INS, has long understood section 212(d)(5)(A) as allowing for parole of applicants for admission who entered the United States without inspection and admission at a port of entry and were present in the country beyond the border. The INS General Counsel issued an opinion in 1998 adopting that straightforward, reasonable construction of the statute.[52] In 2007, the DHS General Counsel issued an opinion endorsing the 1998 INS General Counsel opinion in relevant part.[53] The Department also, for example, issued a Federal Register notice in 2002 providing that applicants for admission who are encountered in the United States within two years of having entered by sea unlawfully and who are placed in expedited removal proceedings may be ''paroled into the United States'' under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).[54]

[42] DHS may also release a noncitizen present without admission or parole from custody on ''conditional parole,'' also known as a release on one's own recognizance, under INA sec. 236(a)(2)(B), 8 U.S.C. 1226(a)(2)(B), pending INA sec. 240, 8 U.S.C. 1229a, removal proceedings. Conditional parole under INA sec. 236(a)(2)(B), however, does not equate to parole under INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5), and therefore does not constitute parole for purposes of adjustment of status under INA sec. 245, 8 U.S.C. 1255, or the Cuban Adjustment Act. *See Matter of Cabrera-Fernandez,* 28 I&N Dec. 747, 748–50 (BIA 2023) (reaffirming *Matter of Castillo-Padilla,* 25 I&N Dec. 257 (BIA 2010), *aff'd,* 417 F. App'x 888 (11th Cir. 2011)); Coldebella Memo, *supra* note 24 (clarifying that ''conditional parole'' under section INA 236(a)(2)(B), 8 U.S.C. 1226(a)(2)(B), does not constitute parole under INA section 212(d)(5), 8 U.S.C. 1182(d)(5)). However, such noncitizens may remain eligible to request a grant of parole in place if they have not otherwise been ''admitted'' to the United States and meet the other requirements.

[43] *See* INA sec. 245, 8 U.S.C. 1255 (requirements for adjustment of status); INA sec. 212(a), 8 U.S.C. 1182(a) (grounds of inadmissibility). While noncitizens generally must also have ''maintain[ed] continuously a lawful status since entry into the United States'' to qualify for adjustment of status under INA sec. 245(a), 8 U.S.C. 1255(a), this restriction does not apply to immediate relatives, which includes spouses and children (including stepchildren) of U.S. citizens. *See* INA sec. 245(c), 8 U.S.C. 1255(c) (bars to adjustment of status eligibility); INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i) (defining ''immediate relatives''); INA sec. 101(b)(1), 8 U.S.C. 1151(b)(1) (defining ''child''). *See also* discussion of unlawful presence *supra* note 10.

[44] INA sec. 245(a), 8 U.S.C. 1255(a).

[45] *Duarte* v. *Mayorkas,* 27 F.4th 1044, 1058 (5th Cir. 2022); *see* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A) (providing that parole shall not be regarded as admission); INA sec. 101(a)(13)(B), 8 U.S.C. 1101(a)(13)(B) (same); *see also, e.g., Sale* v. *Haitian Ctrs. Council, Inc.,* 509 U.S. 155, 175 (1993) (observing that ''[u]nder the INA, both then and now, those seeking 'admission'' and trying to avoid 'exclusion' were already within our territory (or at its border)'' could be paroled under INA section 212(d)(5), 8 U.S.C. 1182(d)(5), ''but the law treat[s] them as though they had never entered the United States at all''); *Leng May Ma* v. *Barber,* 357 U.S. 185, 189 (1958) (noting the legal fiction that a parolee is considered to be constructively remaining at the border applying for admission); *Cruz-Miguel* v. *Holder,* 650 F.3d 189, 197 n.12 (2d Cir. 2011) (''Although [noncitizens] paroled under 8 U.S.C. 1182(d)(5)(A) physically enter the United States temporarily, they are nevertheless deemed to remain constructively detained at the border.'').

[46] The phrase ''parole into the United States'' in INA section 212(d)(5)(A) allows for the temporary release or continued presence of ''any'' applicant for admission—even though already present in the United States—within U.S. territory pending accomplishment of the purpose of the parole. INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5). At the same time, as described in settled case law, the parolee is deemed to be constructively at the border, and courts have consistently understood ''parole into the United States'' as being applicable to applicants for admission who are already present in U.S. territory (*e.g.,* arriving noncitizens who were subject to detention pending exclusion proceedings), even if, under pre-IIRIRA law, they were not considered to have effected an ''entry,'' as that term was formerly defined, *see* 8 U.S.C. 1101(a)(13) (1994), into the United States for immigration purposes). *See, e.g., Sale,* 509 U.S. at 175; *Leng May Ma,* 357 U.S. at 189; *see also Abramski* v. *United States,* 573 U.S. 169, 179 (2014) (''[W]e must (as usual) interpret the relevant words in a statute not in a vacuum, but with reference to the statutory context, structure, history and purpose.'') (quotation marks omitted); *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 133 (2000) (underscoring the ''fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme''); *cf. Bruesewitz* v. *Wyeth LLC,* 562 U.S. 223, 243 (2011) (emphasizing the force of ''consistent judicial gloss'' assigned to a statutory ''term or concept'').

[47] INA sec. 235(a)(1), 8 U.S.C. 1225(a)(1).

[48] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A); *see Cruz-Miguel,* 650 F.3d at 197–98 & n.12.

[49] *Cruz-Miguel,* 650 F.3d at 198; *see also Ortega-Cervantes,* 501 F.3d at 1116 (same).

[50] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A). For purposes of the parole statute, ''applying for admission'' is synonymous with ''applicant for admission.'' *See id.* (providing that when DHS determines the purposes of parole of the noncitizen ''have been served,'' the noncitizen's ''case shall continue to be dealt with in the same manner as that of *any other applicant for admission* to the United States'') (emphasis added); 8 CFR 212.5 (1959) (referring to parole at ports of entry under INA sec. 212(d)(5) of ''any . . . applicant for admission'' at the INS district director's discretion).

[51] *Id.; see Ortega-Cervantes,* 501 F.3d at 1116.

[52] Memorandum from Paul W. Virtue, INS General Counsel, to INS officials, *Authority to Parole Applicants for Admission Who Are Not Also Arriving Aliens,* Legal Op. No. 98–10, 1998 WL 1806685 (Aug. 21, 1998). Based on that 1998 INS legal opinion, the INS Commissioner issued a policy statement authorizing the parole of certain Cuban nationals who entered the United States without inspection, taking into consideration the fact that parole could allow an application for adjustment of status under the Cuban Adjustment Act of 1966 after one year. *See* Memorandum from Doris Meissner, INS Commissioner, to INS officials, *Eligibility for Permanent Residence Under the Cuban Adjustment Act Despite Having Arrived at a Place Other than a Designated Port-of-Entry* (Apr. 19, 1999), *reprinted in* 76 Interpreter Releases 676, 684, App. 1 (May 3, 1999).

[53] Memorandum from Gus P. Coldebella, DHS General Counsel, to DHS officials, *Clarification of the Relation Between Release under Section 236 and Parole under Section 212(d)(5) of the Immigration and Nationality Act* (Sept. 28, 2007) (''Coldebella Memo''), available at *https://www.uscis.gov/sites/default/files/document/legal-docs/Coldebella_Memo.pdf.*

[54] *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the*

Continued

In 2013, relying on existing statutory authorities, USCIS issued policy guidance on the parole in place process for family members of certain current or former members of the U.S. Armed Forces. Pursuant to that guidance, a grant of parole enables those family members to meet the ''inspected and admitted or paroled'' requirement for adjustment of status.[55] In November 2014, the Secretary directed USCIS to expand on these policies to include family members of U.S. citizens and LPRs who seek to enlist in the U.S. Armed Forces.[56]

In 2019, Congress explicitly recognized that parole in place is a legitimate use of parole authority under INA section 212(d)(5).[57] That legislation ''reaffirmed'' ''the importance of the Secretary's parole in place authority.'' [58] More specifically, this emphasized that the use of ''parole in place reinforces the objective of military family unity,'' and directed DHS to ''consider, on a case-by-case basis, whether granting the [parole in place] request would enable military family unity that would constitute a significant public benefit.'' [59] That same year, Congress provided a new long-term immigration status specifically for certain noncitizens in the Commonwealth of the Northern Mariana Islands who had been paroled in place by USCIS for various reasons, including family unity, and authorized continued parole in place for those noncitizens pending adjudication of their applications for the new status.[60]

In the National Defense Authorization Act for FY 2020, Congress legislatively reaffirmed the use of parole for noncitizens already physically present within the United States, indicating Congress's intent that parole in place of individuals already present in the United States constitutes a parole ''into the United States.[61] Likewise, at least two courts of appeals have endorsed this long-standing understanding of the INA, which DHS continues to believe constitutes the best reading of the statute.[62]

According to USCIS data, since it announced the parole in place process for certain military family members in 2013, approximately 82,000 noncitizens have applied for, and 61,000 noncitizens have received, parole in place as the spouse, child, or parent of a servicemember, reservist, or veteran of the U.S. Armed Forces, as of June 30, 2024.[63]

D. Existing Family Unity Parole Processes

Past Secretaries have similarly exercised the parole authority to promote family unity for noncitizens outside the United States who are waiting for a family-based immigrant visa to become available.[64]

For example, the Cuban Family Reunification Parole (CFRP) Program, established in 2007, allows U.S. citizens and LPRs to request parole for certain eligible family members in Cuba who are the beneficiaries of an approved Form I–130.[65] If parole is authorized, these family members may travel to the United States before their immigrant visa priority dates are current and seek parole at a U.S. port of entry to reunify with their family members while awaiting availability of an immigrant visa. In 2014, USCIS launched the Haitian Family Reunification Parole (HFRP) Program, a similar process for U.S. citizens and LPRs with eligible family members in Haiti.[66] In 2016, USCIS announced a family reunification process to allow certain Filipino World War II veterans in the United States to reunite with their eligible family members who are waiting for their immigrant visas to become available.[67]

More recently, DHS announced the implementation of new Family Reunification Parole (FRP) processes for nationals of Colombia,[68] Ecuador,[69] El Salvador,[70] Guatemala,[71] and Honduras,[72] and their immediate family members, who have approved family-based immigrant visa petitions filed on their behalf by a U.S. citizen or LPR. DHS also announced updates to the existing CFRP and HFRP processes to adopt the same modernized and streamlined processing steps implemented for the newer FRP processes.[73]

III. Parole in Place Process for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens

Under this new process, USCIS will consider requests for parole in place from noncitizen spouses of U.S. citizens who are present in the United States without admission or parole and have been continuously physically present for at least 10 years as of June 17, 2024 (that is, continuously physically present since June 17, 2014), and remain continuously physically present through the date they file their request for parole in place. USCIS will also consider parole in place requests from certain noncitizen stepchildren of U.S. citizens provided that they have been continuously physically present in the United States without admission or parole since June 17, 2024 and through the filing of their request for parole in place, and meet the INA's definition of a stepchild of a U.S. citizen.[74]

Immigration and Nationality Act, 67 FR 68924, 68925 (Nov. 13, 2002). The Department, likewise, for the past two decades, has routinely ''parole[d] into the United States'' under INA section 212(d)(5)(A) certain applicants for admission who are encountered within 14 days and 100 miles of the U.S. land border after having crossed into the country without inspection and being placed in expedited removal proceedings. *See Designating Aliens for Expedited Removal,* 69 FR 48877, 48879 (Aug. 11, 2004).

[55] USCIS Military Parole in Place Memorandum, *supra* note 26.

[56] Memorandum from Jeh Johnson, Secretary, U.S. Dep't of Homeland Security, *Families of U.S. Armed Forces Members and Enlistees* (Nov. 20, 2014) (directing USCIS to issue expanded policies on the use of both parole in place and deferred action for certain spouses, children, and parents of individuals seeking to enlist in the U.S. Armed Forces as well as those currently serving), available at *https://www.dhs.gov/sites/default/files/publications/14_1120_memo_parole_in_place.pdf.*

[57] *See* NDAA 2020 sec. 1758(a) (referring to ''parole in place under section 212(d)(5)''), *supra* note 27.

[58] NDAA 2020, sec. 1758(b)(3), *supra* note 27.

[59] NDAA 2020, sec. 1758(a) and (b), *supra* note 27.

[60] *See* Northern Mariana Islands Long-Term Legal Residents Relief Act, Public Law 116–24, sec. 2 (2019) (48 U.S.C. 1806(e)(6)).

[61] *See* NDAA 2020, sec. 1758(b)(3), *supra* note 27.

[62] *See Cruz-Miguel,* 650 F.3d at 198; *Ortega-Cervantes,* 501 F.3d at 1116.

[63] DHS, USCIS, Office of Performance and Quality (OPQ), Computer-Linked Application Information Management System (CLAIMS) 3 (queried 6/2024).

[64] *See Texas* v. *Biden,* 20 F.4th 928, 947 (5th Cir. 2021) (noting that ''[q]uintessential modern uses of the parole power include . . . paroling aliens who qualify for a visa but are waiting for it to become available'') (citing T. Alexander Aleinikoff et al., Immigration and Citizenship: Process and Policy 299 (9th ed. 2021)), *rev'd on other grounds,* 597 U.S. 785 (2022).

[65] *Cuban Family Reunification Parole Program,* 72 FR 65588 (Nov. 21, 2007).

[66] *Implementation of Haitian Family Reunification Parole Program,* 79 FR 75581 (Dec. 18, 2014).

[67] *Filipino World War II Veterans Parole Policy,* 81 FR 28097 (May 9, 2016).

[68] *Implementation of a Family Reunification Parole Process for Colombians,* 88 FR 43591 (July 10, 2023).

[69] *Implementation of a Family Reunification Parole Process for Ecuadorians,* 88 FR 78762 (Nov. 16, 2023).

[70] *Implementation of a Family Reunification Parole Process for Salvadorans,* 88 FR 43611 (July 10, 2023).

[71] *Implementation of a Family Reunification Parole Process for Guatemalans,* 88 FR 43581 (July 10, 2023).

[72] *Implementation of a Family Reunification Parole Process for Hondurans,* 88 FR 43601 (July 10, 2023).

[73] *Implementation of Changes to the Cuban Family Reunification Parole Process,* 88 FR 54639 (Aug. 11, 2023); *Implementation of Changes to the Haitian Family Reunification Parole Process,* 88 FR 54635 (Aug. 11, 2023).

[74] INA sec. 101(b)(1)(B), 8 U.S.C. 1101(b)(1)(B) (defining ''child'' as an unmarried person under age twenty-one, who is, *inter alia,* ''a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred'').

Upon receipt of a properly filed parole in place request,[75] USCIS will determine whether the noncitizen meets the criteria outlined in this notice, whether a grant of parole in place is warranted based on significant public benefit or urgent humanitarian reasons, and whether the requestor merits a favorable exercise of discretion. All parole in place requests will be considered on a case-by-case basis as required under the parole statute.[76]

USCIS will exercise its unfettered discretion in administering this process and prioritizing requests consistent with the statute and any applicable regulations. For example, if it determines that the evidence submitted does not establish eligibility for parole in place, USCIS may, in its discretion, issue a request for evidence, issue a notice of intent to deny, or deny the request without requesting additional information or evidence.[77] In addition, requestors may be required to appear for an interview.[78] There is no right to the adjudication of a parole request, including within any given period. Nor is there a right to an administrative appeal.

USCIS will consider on a case-by-case basis: criminal history; any previous removal proceedings and removal orders; the results of background checks, which include national security and public safety vetting; positive and adverse factors presented by the requestor; and any other relevant information available to or requested by USCIS. Noncitizens who have been convicted of serious offenses will be ineligible for this process, as will those whom USCIS determines, in its discretion, otherwise pose a threat to national security, public safety, or border security.[79] Other criminal convictions, excluding minor traffic offenses, will result in a rebuttable presumption of ineligibility for parole in place. This presumption can be rebutted on a case-by-case basis by weighing the seriousness of the conviction against mitigating factors relating to the conviction as well as other positive factors that suggest that the noncitizen merits a favorable exercise of discretion. Noncitizens with pending criminal charges will be ineligible for parole in place under this process, until those charges are resolved.[80]

Eligible noncitizens who are currently in removal proceedings and do not have a final order of removal may request parole in place. However, if the noncitizen would otherwise constitute a national security, public safety, or border security concern,[81] they will be ineligible to receive parole in place pursuant to this process.[82] USCIS will evaluate, in the exercise of its discretion, the existence and circumstances of the removal proceedings in determining whether the noncitizen may be granted parole in place. Noncitizens with unexecuted final removal orders are presumptively ineligible for this process. In the exercise of its discretion, USCIS will evaluate the facts and circumstances underlying the unexecuted final removal order, including the basis for the removal order, to determine whether the noncitizen may overcome the presumption of ineligibility and be granted parole in place.[83] In so doing, USCIS will coordinate as necessary with the U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA).

Parole determinations are reserved to the exclusive discretionary authority of DHS. If parole in place is denied, there is no right to an administrative appeal, and neither immigration judges nor the Board of Immigration Appeals (BIA) have the authority to consider or review parole requests.[84]

Nothing in this notice or the implementation of this parole in place process is intended to limit DHS's authority to take enforcement actions in accordance with the INA and consistent with governing policies and practices. DHS may initiate and pursue enforcement action pursuant to its enforcement priorities[85] under its existing authorities notwithstanding a noncitizen's intent to request parole in place, eligibility to request parole in place, filing of a request for parole in place, or grant of parole in place under this process.

IV. Basis for Parole—Significant Public Benefit

Granting parole in place on a case-by-case basis to noncitizens who meet the criteria outlined in this notice and merit a favorable exercise of discretion will generally provide a significant public benefit to the United States, including to the impacted noncitizens, their families, and their communities at large by: (1) promoting family unity and stability; (2) strengthening the U.S. economy and the economic position of families and U.S. communities; (3) advancing diplomatic relationships and key foreign policy objectives of the United States; (4) reducing strain on limited U.S. government resources; and (5) furthering national security, public safety, and border security objectives. Through a case-by-case assessment, USCIS will consider whether parole for each requestor individually will provide a significant public benefit to further these goals.

Promoting Family Unity and Stability

This process will promote family unity by allowing certain noncitizens who have long lived in the United States to apply for permanent residence, if otherwise eligible, in the United States without separating them from their U.S. citizen spouses and, in many cases, their U.S. citizen children. Courts have long recognized preservation of family unity to be a ''prevailing purpose'' of U.S. immigration law.[86] This use of the Secretary's statutory parole authority addresses a barrier that currently prevents many of these otherwise eligible noncitizens from

[75] *See* Section VI. of this notice for additional information regarding proper filing of a request for parole in place under this process.

[76] *See* INA 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[77] *See* 8 CFR 103.2(b)(8).

[78] *See* 8 CFR 103.2(b)(9).

[79] As discussed further in Section V.A. of this notice, there is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[80] *See* Section V.A. of this notice.

[81] *See, e.g.,* Memorandum from Alejandro N. Mayorkas, Secretary, U.S. Dep't of Homeland Security to Tae D. Johnson, Acting Director, U.S. Immigration and Customs Enforcement, et al., *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021) (''September 2021 Guidelines''), available at *https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf.*

[82] As noted above and discussed further in Section V.A. of this notice, noncitizens present border security concerns if they were apprehended while attempting to enter the U.S. unlawfully or if they entered unlawfully after November 1, 2020. There is an exception to this for stepchildren who otherwise meet the criteria for parole in place under this process.

[83] A noncitizen with an unexecuted final removal order who overcomes this presumption and is granted parole in place, and who wishes to pursue adjustment of status, may file a motion to reopen or a motion to reopen and terminate removal proceedings with EOIR. Noncitizens may request U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA) to join (or not oppose) a motion to reopen and dismiss or terminate submitted to EOIR, depending on the facts and circumstances. Any such motion would be decided on its own merits in a distinct and separate process from the parole in place adjudication.

[84] *See Matter of Castillo-Padilla,* 25 I. & N. Dec. 257, 261 (BIA 2010), *aff'd,* 417 F. App'x 888 (11th Cir. 2011).

[85] *See, e.g.,* September 2021 Guidelines, *supra* note 81.

[86] *Nwozuzu* v. *Holder,* 726 F.3d 323, 332 (2d Cir. 2013) (citing H.R. Rep. No. 82–1365 (1952), *reprinted in* 1952 U.S.C.C.A.N. at 1680); *see also Holder* v. *Martinez Gutierrez,* 566 U.S. 583, 594 (2012) (recognizing that the ''objectives of providing relief to [noncitizens] with strong ties to the United States and promoting family unity . . . underlie or inform many provisions of immigration law,'' even if ''they are not the INA's only goals, and Congress did not pursue them to the *n*th degree'') (quotation marks omitted) (citing *Fiallo* v. *Bell,* 430 U.S. 787, 795 n.6 (1977), and *INS* v. *Errico,* 385 U.S. 214, 220 (1966)).

obtaining LPR status and will also promote the long-term sense of security and stability for these families.

This process will benefit an estimated 500,000 noncitizen spouses and 50,000 noncitizen stepchildren.[87] The noncitizen spouses eligible for this process have lived in the United States for a median time period of 23 years, illustrating the depth of their ties to the country.[88] More than 1.6 million U.S. citizen family members, including 1.1 million U.S. citizen children, are estimated to live with these noncitizen family members.[89] Absent this process, for these noncitizens to apply for permanent residence, their U.S. citizen spouses and children might have to endure prolonged separation from them, which would disrupt their lives, create instability, and result in avoidable economic and emotional hardship. Without this process, hundreds of thousands of noncitizen spouses of U.S. citizens are likely to instead remain in the United States without lawful status, causing these families to live in fear and with uncertainty about their futures.[90]

In justifying the establishment of the parole in place process for military families in partnership with the Department of Defense, USCIS described how in the absence of such a process, service members faced ''stress and anxiety because of the immigration status of their family members in the United States.'' [91] Here, too, access to parole in place will reduce the stress and anxiety of U.S. citizen spouses and children by providing stability for these families in the short and long term.

Strengthening the U.S. Economy and the Economic Position of Families and U.S. Communities

If parole in place is granted, the noncitizen will be immediately eligible to apply for employment authorization for the duration of their parole period, which will benefit both their U.S. citizen family members and the broader U.S. economy. Additionally, this process will provide these noncitizens the ability to work lawfully,[92] which will facilitate greater access to job mobility and improve overall economic productivity; [93] provide stable, consistent support to their U.S. citizen family members; [94] reduce their risk of facing labor exploitation; [95] and allow for these noncitizens to contribute their full talents to the U.S. workforce.[96]

Currently, an estimated 65 percent of noncitizens over the age of 16 who do not have lawful status are already participating in the U.S. workforce, and many are self-employed.[97] The noncitizen spouses of U.S. citizens covered by this process generally lack access to employment authorization and are therefore prevented from contributing as fully to the economy as they otherwise could. Like other U.S. families, U.S. citizen spouses, noncitizen spouses, and their families pay taxes and stimulate the economy by consuming goods and services. These activities contribute to further growth of the economy and create additional jobs and opportunities for U.S. citizens.[98] Providing these noncitizens access to employment authorization could also increase their labor force participation in a tight labor market, where there are more jobs than workers.[99]

U.S. citizen family members will also benefit from the stability offered through this process. Absent this process, applying for LPR status requires noncitizens who are present without admission or parole (PWAP) to depart the United States and remain abroad for an indefinite period, which is disruptive to the family's economic and emotional wellbeing. By contrast, parole and the subsequent ability to apply for LPR status from within the United States will enable these noncitizens to consistently support and provide for their U.S. citizen family members.

Access to employment authorization will also reduce potential labor exploitation, furthering a DHS and government-wide interest.[100] Research demonstrates that noncitizens who lack employment authorization are more likely to experience violations of labor laws, including laws governing workplace conditions and minimum wages.[101] They are also less likely to report those violations to enforcement agencies because of their unauthorized status.[102] This allows unscrupulous

[87] OHSS Analysis, *supra* note 3, tbl. 3.

[88] *Id.* tbl. 5.

[89] *Id.* tbl. 4. While the total number of U.S. citizens living in families with noncitizen spouses who lack lawful status is over 2.5 million, including over 1.6 million children, the subset of U.S. citizens living with noncitizen spouses who lack lawful status, who have lived in the country for 10 or more years, and who entered without inspection is estimated to be 1.65 million, including an estimated 1.1 million U.S. citizen children.

[90] Edward Vargas & Vickie Ybarra, *U.S. Citizen Children of Undocumented Parents: The Link Between State Immigration Policy and the Health of Latino Children,* J. Immigr. Minor Health (Aug. 2017), available at *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5236009.* The impact of this instability is particularly profound for children in these families. *See* ''Preventing violence through the development of safe, stable, and nurturing relationships between children and their parents and caregivers,'' World Health Organization and Centre for Public Health (2009), *https://iris.who.int/bitstream/handle/10665/44088/9789241597821_eng.pdf;* Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study,* Am. J. Preventive Medicine 14 no. 4, 245–258 (1998), *https://www.ajpmonline.org/article/S0749-3797(98)00017-8/fulltext;* A. Martinez, L. Ruelas, and D. Granger, *Household fear of deportation in Mexican-origin families: Relation to body mass index percentiles and salivary uric acid,* Am. J. Hum. Biol. 2017, *https://pubmed.ncbi.nlm.nih.gov/28726338/*; L. Rojas-Flores, M. Clements, J. Hwang Koo, and J. London, *Trauma and psychological distress in Latino citizen children following parental detention and deportation,* Psychol. Trauma 2017, *https://pubmed.ncbi.nlm.nih.gov/27504961/.*

[91] USCIS Military Parole in Place Memorandum, *supra* note 26.

[92] *See* 8 CFR 274a.12(c)(11). Noncitizens who apply for adjustment of status to that of an LPR under INA sec. 245 may also apply for and obtain employment authorization while their adjustment application remains pending. *See* 8 CFR 274a.12(c)(9).

[93] Cecilia Rouse, Lisa Barrow, Kevin Rinz, and Evan Soltas, White House Council of Economic Advisers, *Economic Benefits of Extending Permanent Legal Status to Unauthorized Immigrants* (Sept. 17, 2021), *https://www.whitehouse.gov/cea/written-materials/2021/09/17/the-economic-benefits-of-extending-permanent-legalstatus-to-unauthorized-immigrants/.*

[94] *Id.*

[95] Felipe González Morales, United Nations Special Rapporteur on the Human Rights of Migrants, *How to Expand and Diversify Regularization Mechanisms and Programmes to Enhance the Protection of the Human Rights of Migrants,* at 3, U.N. Doc. A/HRC.52/26 (Apr. 20, 2023).

[96] *See supra* note 93.

[97] *See* Migration Policy Institute, ''Profile of the Unauthorized Population: United States,'' available at *https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US* (last visited June 16, 2024).

[98] Cecilia Rouse, Lisa Barrow, Kevin Rinz, and Evan Soltas, White House Council of Economic Advisers, *Economic Benefits of Extending Permanent Legal Status to Unauthorized Immigrants* (Sept. 17, 2021) (describing the ways in which the presence of immigrants helps stimulate the economy), available at *https://www.whitehouse.gov/cea/written-materials/2021/09/17/the-economic-benefits-of-extending-permanent-legal-status-to-unauthorized-immigrants/.*

[99] *Id.; see also* U.S. Bureau of Labor Statistics, *Number of unemployed persons per job opening, seasonally adjusted, available at https://www.bls.gov/charts/job-openings-and-labor-turnover/unemp-per-job-opening.htm#.*

[100] Memorandum from Alejandro Mayorkas, Secretary, U.S. Dep't of Homeland Security, *Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual* (Oct. 12, 2021), available at *https://www.dhs.gov/publication/memorandum-worksite-enforcement.*

[101] *See, e.g.,* Annette Bernhardt, Ruth Milkman, and Nik Theodor, National Employment Law Project, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* 25, 42–45 (Sept. 21, 2009), available at *https://www.nelp.org/insights-research/broken-laws-unprotected-workers-violations-of-employment-and-labor-laws-in-americas-cities/.*

[102] *See, e.g.,* Tsedeye Gebreselassie, Nayantara Mehta, and Irene Tung, National Employment Law Project, *How California Can Lead on Retaliation Reforms to Dismantle Workplace Inequality* 8 (Nov. 2, 2022), available at *https://www.nelp.org/insights-research/how-california-can-lead-on-retaliation-*

employers to unfairly compete with those who hire U.S. workers.[103]

In addition, although undocumented noncitizens contribute billions in Federal, State, and local taxes each year, regularizing the status of this population has the potential to increase these tax revenues.[104] Noncitizens who lack employment authorization may file taxes using an Individual Taxpayer Identification Number (ITIN). Past estimates suggest that noncitizens filing with ITINs pay billions in withheld payroll taxes annually.[105] While a precise estimate of the tax compliance rate among the undocumented population is unknown, government agencies and nongovernmental organizations have previously inferred that it may be between 50 to 75 percent. Providing access to employment authorization for this population would increase tax revenues by decreasing barriers to compliance with the tax code and increasing the earning potential of these noncitizens.[106]

The benefits of facilitating access to employment authorization for this particular population far outweigh the potential costs to American workers or to the U.S. economy. First, a review of economic studies concludes that providing legal status to unauthorized noncitizens does not harm U.S.-born and other workers in the longer term, as the impact of immigration on wages overall is both limited and very small.[107] Second, the impact on public benefits at both the State and Federal level is expected to be minimal, at least initially, as these noncitizens would be ineligible to access most means-tested benefits for five years after being granted parole in place, as discussed in detail in Section VII.C. of this notice.[108] See additional discussion of benefits related to the economy and labor market in Section VIII.A. of this notice.

Advancing Diplomatic Relationships and Key Foreign Policy Objectives of the United States

This process responds to the requests and interests of key foreign partners and aligns with the U.S. government's broader foreign policy objectives to collaboratively manage migration and promote economic stability in countries throughout the Western Hemisphere.

The significant majority of noncitizens who stand to benefit from this process are nationals of Western Hemisphere countries that serve as key migration management partners of the United States. An estimated 64 percent of the noncitizens who are likely to access this process are Mexican nationals, while 20 percent are from Guatemala, Honduras, and El Salvador.[109] An additional 13 percent are nationals of other Western Hemisphere countries.[110]

The United States continues to engage with partner countries in the Western Hemisphere to manage extraordinary levels of migration. These efforts include addressing the root causes of migration, expanding access to lawful pathways, and disrupting human smuggling, trafficking, and criminal networks that prey on the most vulnerable individuals. As part of the strategy to reduce irregular migration and ensure migrants have access to protection, services and employment, the United States has worked with its partners to ensure migrants in other countries have access to regularization programs.

For example, as part of a multilateral process involving 21 countries, in May 2024, Ecuador announced a new regularization program under which certain migrants are able to obtain a temporary resident permit, while others are able to apply for a temporary visa.[111] Colombia has given 10-year temporary protected status to approximately 2.5 million Venezuelans,[112] and announced a plan for parents and legal guardians of children with such status to obtain special permits. Colombia also announced a new special permanent visa for Latin American and Caribbean migrants without regular status in the country. Similarly, Costa Rica committed to expand its Special Temporary Category regularization pathway and reduce barriers to access with continued assistance from the international community.[113]

This parole in place process demonstrates U.S. partnership and commitment to the shared goals of addressing migration through the Western Hemisphere. Partner countries have requested regularization of their respective nationals who have lived in the United States for long periods of time without lawful status.[114] For

reforms-to-dismantle-workplace-inequality/ (noting that only 10 percent of respondents who experienced labor violations reported those violations to a government agency).

[103] U.S. Dep't of Homeland Security, DHS Announces Process Enhancements for Supporting Labor Enforcement Investigations (Jan. 13, 2023) (describing how deferred action protects undocumented workers who may then come forward to participate in enforcement agency investigations of potential violations of labor laws), available at *https://www.dhs.gov/news/2023/01/13/dhs-announces-process-enhancements-supporting-labor-enforcement-investigations.*

[104] *See, e.g.,* Carl Davis, Marco Guzman, and Emma Sifre, Institute on Taxation and Economic Policy, *Tax Payments by Undocumented Immigrants* (July 30, 2024), available at *https://itep.org/undocumented-immigrants-taxes-2024.*

[105] *See, e.g.,* Nat'l Taxpayer Advocate, Annual Report to Congress, Vol. 1, 199 (2015) (''In 2015, 4.4 million ITIN filers paid over $5.5 billion in payroll and Medicare taxes and $23.6 billion in total taxes''), available at *https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC15_Volume1.pdf;* Stephen Goss et al., Social Security Administration, Office of the Chief Actuary, Actuarial Note No. 151, *Effects of Unauthorized Immigration on the Actuarial Status of the Social Security Trust Funds* (Apr. 2013) (''For the year 2010, we estimate that the excess of tax revenue paid to the [Social Security] Trust Funds over benefits paid from these funds based on earnings of unauthorized workers is about $12 billion.''), available at *https://www.ssa.gov/oact/NOTES/pdf_notes/note151.pdf.*

[106] Rouse et al., *supra* note 93 (citing Elizabeth U. Cascio & Ethan G. Lewis, *Distributing the Green (Cards): Permanent Residency and Personal Income Taxes after the Immigration Reform and Control Act of 1986,* 172 J. Pub. Econ. 135 (2019)); Davis et al., *supra* note 104.

[107] *See, e.g.,* National Academies, *The Economic and Fiscal Consequences of Immigration* (2017), available at *https://www.nationalacademies.org/our-work/economic-and-fiscal-impact-of-immigration.*

[108] USCIS, Appendix: Eligibility for Public Benefits (describing limitations on when ''qualified aliens,'' including parolees and LPRs, can access public benefits, typically after five years), available at *https://www.uscis.gov/sites/default/files/document/policy-manual-resources/Appendix-EligibilityforPublicBenefits.pdf; see also* 8 U.S.C. 1641(b) (defining ''qualified alien''). Cuban and Haitian nationals who are granted parole, however, are generally eligible for ''Cuban-Haitian Entrant Program'' (CHEP) benefits. *See* Refugee Education Assistance Act of 1980, Public Law 96–422, sec. 501 (8 U.S.C. 1522 note); 8 CFR 212.5(h); *see also* U.S. Dep't of Health and Human Services, Office of Refugee Resettlement, Benefits for Cuban/Haitian Entrants (Fact Sheet), available at *https://www.acf.hhs.gov/orr/fact-sheet/benefits-cuban/haitian-entrants.* Eventually, with LPR status, these parolees could potentially become eligible for other public benefits, but their uptake of these public benefits would likely be curtailed by their access to lawful employment and offset by the increased taxes they would pay as formal contributors to the economy. Rouse et al., *supra* note 93. However, as discussed elsewhere in this section, DHS estimates that only 13 percent of noncitizens likely to access this parole in place process are nationals of Western Hemisphere countries other than Mexico, Guatemala, Honduras, or El Salvador.

[109] OHSS Analysis, *supra* note 3, tbl. 3.

[110] *Id.*

[111] The White House, *Fact Sheet: Third Ministerial Meeting on the Los Angeles Declaration on Migration and Protection in Guatemala* (May 7, 2024) (''White House Fact Sheet''), available at *https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/07/fact-sheet-third-ministerial-meeting-on-the-los-angeles-declarationon-migration-and-protection-in-guatemala/.*

[112] *See* U.S. Dep't of State, Secretary Antony J. Blinken and Secretary of Homeland Security Alejandro Mayorkas at a Joint Press Availability (Apr. 27, 2023), available at *https://www.state.gov/secretary-antony-j-blinken-and-secretary-of-homeland-security-alejandro-mayorkas-at-a-joint-press-availability.*

[113] White House Fact Sheet, *supra* note 111.

[114] The White House, *Mexico-U.S. Joint Communique: Mexico and the United States Reaffirm Their Shared Commitments on an Orderly, Humane and Regular Migration* (Dec. 28, 2023), available at *https://www.whitehouse.gov/briefing-room/statements-releases/2023/12/28/mexico-u-s-*

Continued

example, the Government of Mexico has urged the United States to regularize Mexican nationals who are long-term residents of the United States.[115] Further, the Government of Colombia has requested that the United States regularize certain Colombian nationals living in the United States. Both Mexico and Colombia have partnered closely with the United States to address irregular migration.[116] This parole in place process will therefore strengthen the United States' ability to cooperate and engage with these and other key partners in the region. This cooperation and engagement extends to matters of national and border security as well.

This process will also further the key foreign policy objectives of increasing economic stability in countries that are major sources of migration to the United States. By providing certain noncitizen long-term residents of the United States the ability to access employment authorization and adjustment of status, this process will enhance their ability to send remittances to family members in their countries of origin, promoting stability and reducing incentives for those family members or others to irregularly migrate to the United States.[117] Remittances play a pivotal role in origin countries' economies in the Western Hemisphere. In 2023, remittances received by the countries of Latin America and the Caribbean reached $154 billion.[118] Remittances are crucial to low- and middle-income countries, as they can improve a country's ability to repay debt and national banks can use future inflows as collateral to lower the costs of international borrowing.[119]

Reducing Strain on Limited U.S. Government Resources

The process will also provide the significant public benefit of preserving and more effectively using limited U.S. government resources for DHS (including USCIS and ICE), DOS, and DOJ (EOIR). USCIS anticipates that this process will ultimately reduce pressure on the overlapping, lengthier, and more complex Form I–601A, Application for Provisional Unlawful Presence Waiver, workload.[120]

As of the third quarter of FY 2024, nearly 124,000 Forms I–601A were pending adjudication, and the median processing time to adjudicate a Form I–601A was 41.7 months. Of these pending applications, approximately 44,000, or 35 percent, were filed by noncitizens who have been in the United States for 10 years or more and are married to a U.S. citizen. While increased resources have allowed USCIS to complete more Form I–601A adjudications in FY 2024 year-to-date than in all of FY 2023, the backlog has only been reduced by 5,000 since the start of FY 2024. Although USCIS will carefully consider parole in place requests under this process on a case-by-case basis, USCIS expects that these adjudications will require fewer resources than those required to adjudicate the Form I–601A, given the nature of the adjudication. For example, requestors for this parole in place process will be required to file online, allowing for a more efficient adjudication, while the Form I–601A can only be filed on paper through the mail. USCIS has leveraged many of the efficiencies[121] developed for the online Form I–131 in the development of Form I–131F, which will be both filed and adjudicated electronically. Furthermore, as described elsewhere in this notice, the Form I–601A is a more complex adjudication involving the determination of various factors, including whether the noncitizen has met their burden to show they would be inadmissible only under INA section 212(a)(9)(B)(i) at the time of their consular interview, and whether they have demonstrated extreme hardship to a qualifying relative as required under INA section 212(a)(9)(B)(v), issues that are inherently more difficult to assess in comparison to a discretionary parole request.

USCIS also anticipates that a significant number of noncitizens who may have otherwise filed Form I–601A as a step towards obtaining lawful permanent residence will instead pursue a parole in place request under this process. If future I–601A workloads are reduced, USCIS will be better able to focus on reducing the I–601A backlog, while assuming fewer new I–601A filings.

Although USCIS created a new Form I–131F to support this process, and USCIS will assume a new workload by accepting these parole in place requests, it will offset this new workload by charging a filing fee of $580 as it generally does for parole requests filed online.[122] Thus, USCIS anticipates it will recover the costs associated with this new workload through the fees collected.

Because this process may result in fewer noncitizens filing Forms I–601A and pursuing immigrant visa applications at U.S. embassies or consulates, the parole in place process is also expected to reduce strain on DOS. Consular processing of an immigrant visa application after USCIS approves a Form I–601A involves significant DOS resources. The provisional unlawful presence waiver does not take effect until the applicant departs the United States, appears for an immigrant visa interview at a U.S. embassy or consulate, and is determined by a consular officer to be otherwise eligible for an immigrant visa in light of the approved provisional waiver.[123] If the consular officer finds that the noncitizen is inadmissible based on a ground other than INA section 212(a)(9)(B)(i), 8 U.S.C. 1182(a)(9)(B)(i), the provisional unlawful presence waiver is automatically revoked, and the noncitizen must seek a waiver of inadmissibility for all waivable grounds of inadmissibility through filing a Form I–601, Application for Waiver of

joint-communique-mexico-and-the-united-states-reaffirm-their-shared-commitments-on-an-orderly-humane-and-regular-migration/.

[115] *See, e.g.,* Government of Mexico, *En diálogo con su homólogo estadounidense, presidente López Obrador ratifica propuesta en materia migratoria (In Dialogue with His American Counterpart, President López Obrador Ratifies Proposal on Immigration Matters)* (Feb. 3, 2024), available at *https://www.gob.mx/presidencia/prensa/en-dialogo-con-su-homologo-estadounidense-presidente-lopez-obrador-ratifica-propuesta-en-materia-migratoria.*

[116] *See, e.g.,* Department of State, *U.S.-Colombia Joint Commitment to Address the Hemispheric Challenge of Irregular Migration* (June 4, 2023), available at *https://www.state.gov/u-s-colombia-joint-commitment-to-address-the-hemispheric-challenge-of-irregular-migration/; see also* Department of State, *U.S. Relations with Mexico* (Sept. 13, 2023), available at *https://www.state.gov/u-s-relations-with-mexico/.*

[117] *See, e.g.,* Jose Ivan Rodriguez-Sanchez, *An Economic Lifeline? How Remittances from the U.S. Impact Mexico's Economy,* Baker Institute of Rice University (Nov. 13, 2023), available at *https://www.bakerinstitute.org/research/economic-lifeline-how-remittances-us-impact-mexicos-economy.*

[118] Jeremy Harris and René Maldonado, *Migrant wages and remittances to Latin America and the Caribbean in 2023,* Migration Unpacked, Inter-American Development Bank (May 15, 2024), available at *https://blogs.iadb.org/migracion/en/migrant-wages-and-remittances-to-latin-america-and-the-caribbean-in-2023/.*

[119] *See id.*

[120] Certain immigrant visa applicants may use Form I–601A to request a provisional waiver of the unlawful presence grounds of inadmissibility under INA section 212 (a)(9)(B) before departing the United States to appear at a U.S. Embassy or Consulate for an immigrant visa interview. 8 CFR 212.7(e)(3).

[121] Every submission completed online rather than through paper provides cost savings and operational efficiencies to both USCIS and its customers. USCIS scans some applications, petitions, and requests received on paper so that they can be processed electronically. USCIS offers recommendations to avoid delays when filing paper; if more documents were filed electronically, it would reduce the time spent on scanning paper documents and free up more time for adjudication rather than administrative tasks. *See* U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 89 FR 6194 (Jan. 31, 2024).

[122] *See* 8 CFR 106.2(a)(7); 106.1(g).

[123] 8 CFR 212.7(e)(12)(i).

Grounds of Inadmissibility.[124] In such cases, the noncitizen must await USCIS adjudication of the Form I–601, which has a median processing time of 20.5 months. This revocation followed by a new adjudication adds to the DOS workload and reduces interview availability for other visa applicants. The parole in place process may thus help decrease future wait times for other noncitizens who have a visa number and are waiting for a visa interview at a U.S. embassy or consulate. Despite considerable efforts, some U.S. consular sections are still working to reduce backlogs caused by the COVID–19 pandemic.[125] As of June 2024, DOS's National Visa Center (NVC) had 394,836 individuals awaiting an immigrant visa interview; on average, the NVC can schedule 48,898 applicants for interviews each month.[126] If, as anticipated, more noncitizens pursue adjustment of status instead of consular processing, DOS could save consular interview appointments for other immigrant and nonimmigrant visa categories. While this would result in an increase in USCIS' adjustment of status workload, those filings will be accompanied by the required fee; USCIS believes that on net, implementation of the parole in place process will result in saving government resources compared to the status quo.

The parole in place process also may save resources for ICE and the Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) if, as a result of being granted parole in place and pursuing adjustment of status, fewer members of this population are placed in or remain in removal proceedings. Additionally, noncitizens who meet the criteria and are not priorities for enforcement may request to be considered for parole in place under this process, despite currently being in removal proceedings. If granted parole in place, they may seek to have their removal proceedings terminated or dismissed [127] and apply to adjust their status.[128] In the currently overburdened immigration court system, cases that are terminated or dismissed free up court time and permit immigration judges and ICE OPLA attorneys to focus on priority cases.

Furthering National Security, Public Safety, and Border Security Objectives

This process will promote national security, public safety, and border security by requiring noncitizens who choose to request parole in place under this process to submit biometric and biographic information to DHS and undergo background and security checks. The information collected through this process will be used to thoroughly vet every requestor and may identify and disqualify individuals who pose a national security, public safety, or border security threat.[129] DHS has also determined that the criteria outlined in this notice—such as the requirements that the requestor have 10 years of continuous physical presence in the United States and that the marriage to a U.S. citizen must have occurred on or before June 17, 2024—promote process integrity, prevent potential fraud, and provide greater certainty about the scope of the potential population.

Further, noncitizens granted parole may be more willing to report crimes because they will be less fearful that interacting with law enforcement will result in an immigration enforcement action.[130] One study found that 59 percent of Deferred Action for Childhood Arrivals (DACA) recipients would report a crime that they would not have reported before receiving DACA.[131] In that same study, two-thirds of respondents said they were less afraid of law enforcement after receiving DACA.[132] Additionally, studies have shown that when vulnerable communities feel safer reporting crimes, law enforcement can create more comprehensive strategies to effectively target perpetrators.[133]

V. Eligibility

A. Criteria

To be considered for a discretionary grant of parole in place under this process, a requestor who is the noncitizen spouse of a U.S. citizen must meet the following criteria:

- Be present in the United States without admission or parole;
- Have been continuously physically present in the United States since at least June 17, 2014 through the date of filing the parole in place request;
- Have a legally valid marriage to a U.S. citizen on or before June 17, 2024;
- Have no disqualifying criminal history; and
- Submit biometrics, undergo required background checks and national security, public safety, and border security vetting, and be found not to pose a threat to national security or public safety.

To be considered for a discretionary grant of parole in place under this process, a requestor who is the stepchild of a U.S. citizen must meet the following criteria:

- Be present in the United States without admission or parole;
- Have a parent who entered into a legally valid marriage with a U.S. citizen on or before June 17, 2024 and before the child's 18th birthday;
- Have been continuously physically present in the United States since at least June 17, 2024 through the date of filing;
- Have no disqualifying criminal history; and
- Submit biometrics, undergo required background checks and national security and public safety vetting, and be found not to pose a threat to national security or public safety.

The burden is on the requestor to demonstrate by a preponderance of the evidence that they meet the criteria outlined in this notice, and that parole

[124] 8 CFR 212.7(e)(14).

[125] U.S. Dep't of State, Immigrant Visa Interview-Ready Backlog Report (July 2024), available at *https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/visas-backlog.html.*

[126] *Id.*

[127] A grant of parole in place pursuant to this process does not automatically result in removal proceedings before DOJ EOIR being terminated or dismissed. Generally, a party to the removal proceedings (either the noncitizen or ICE) must move for termination or dismissal of removal proceedings. DOJ EOIR (either an immigration judge or the Board of Immigration Appeals) will evaluate and issue a decision on the motion for termination or dismissal under applicable standards. *See, e.g.,* 8 CFR 1003.1(m), 1239.2(b); 8 CFR 1003.18(d).

[128] If removal proceedings are not terminated or dismissed, the immigration judge generally retains exclusive jurisdiction to adjudicate any application for adjustment of status. 8 CFR 1245.2(a)(1) (providing that in ''the case of any [noncitizen] who has been placed in . . . removal proceedings (other than as an arriving alien), the immigration judge . . . has exclusive jurisdiction to adjudicate any application for adjustment of status''); *see also* 8 CFR 1245.2(a)(1)(ii) (describing exceptions for certain ''arriving aliens''); 8 CFR 245.2(a)(1) (providing that USCIS ''has jurisdiction to adjudicate an application for adjustment of status filed by any [noncitizen], unless the immigration judge has jurisdiction to adjudicate the application'').

[129] As discussed further in Section V.A. of this notice, there is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[130] *See, e.g.,* Stefano Comino *et al., Silence of the Innocents: Undocumented Immigrants' Underreporting of Crime and their Victimization,* 39 J. of Pol'y Analysis, 1214, 1215 (2020) (''Undocumented victims' reporting rate is less than half the size of documented ones.'').

[131] *See* Roberto G. Gonzales, *Here's How DACA Changed the Lives of Young Immigrants, According to Research,* Vox (Feb. 16, 2018), available at *https://www.vox.com/2017/9/2/16244380/daca-benefits-trump-undocumented-immigrants-jobs.* Similar to deferred action, however, parole may be revoked at any time and does not constitute a right against enforcement action.

[132] *Id.*

[133] *See, e.g.,* Stacey Ivie & Natalie Nanasi, *The U Visa: An Effective Resource for Law Enforcement,* 78 FBI Law Enforcement Bulletin 10, 10–16 (Oct. 2009).

is warranted as a matter of discretion for urgent humanitarian reasons or significant public benefit. Meeting the requirements for parole in place under this process does not establish eligibility for other immigration benefits, including LPR status.

Present in the United States Without Admission or Parole

A requestor must be present in the United States without admission or parole. Noncitizens who were last admitted with a valid nonimmigrant visa but have remained in the United States beyond the period of stay authorized are not eligible for parole in place.[134]

Continuous Physical Presence Since June 17, 2014

Noncitizen spouses of U.S. citizens requesting parole in place under this process must have been continuously physically present in the United States since at least June 17, 2014, through the date of filing the parole in place request. Requestors should provide documentation to account for as much of the period as reasonably possible, but there is no requirement that every day or month of that period be specifically accounted for through direct evidence.[135] USCIS will evaluate the totality of the evidence to determine whether the requestor has established by a preponderance of the evidence continuous physical presence for the required period of time.

Marriage to a U.S. Citizen

To be eligible for parole in place as the noncitizen spouse of a U.S. citizen, the requestor must have entered into a valid marriage to a U.S. citizen on or before June 17, 2024, and be married on the date of filing the parole in place request (with an exception for widows and widowers as discussed below). USCIS will generally recognize a marriage as valid for purposes of this parole in place process if it is legally valid in the place where the marriage was celebrated.[136] This includes termination of any prior marriage. Although States and foreign countries may have specific laws governing jurisdiction, the place of celebration is generally where the ceremony took place or where the officiant of the ceremony was located and where the marriage certificate was issued.[137] Even if a marriage is valid in the place of celebration, there are circumstances where USCIS may not recognize a marriage as valid for purposes of this process, consistent with existing case law and policies for family-based immigrant visa petitions and other benefits.[138]

Consistent with the INA and case law, examples of the types of marital relationships that USCIS generally will not recognize for purposes of this process include, but are not limited to:

- Civil unions, domestic partnerships, or other relationships that do not confer the same legal rights and responsibilities to the parties as in a marriage recognized by a civil authority;
- Marriages that are contrary to public policy in the United States; [139] and
- Marriages where one or both parties to the marriage are not legally free to marry or have not given consent to the marriage.[140]

A noncitizen may be eligible for parole in place if their U.S. citizen spouse is deceased, as long as a legally valid marriage was entered into on or before June 17, 2024. However, there are additional requirements separate from the parole in place process that the noncitizen must meet to be eligible for adjustment of status. A noncitizen widow(er) must have a pending or approved Form I–130 filed on their behalf at the time of the U.S. citizen spouse's death or must file a Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant, within two years from the date of the U.S. citizen spouse's death. The noncitizen must not have been legally separated from the U.S. citizen spouse at the time of the U.S. citizen spouse's death and must not have since remarried.[141]

Noncitizen Stepchildren of U.S. Citizens

Noncitizen children of a noncitizen married to a U.S. citizen may be considered for parole in place under this process. For a child to qualify as the stepchild of a U.S. citizen, the child must have been under age 18 at the time of the marriage that created the stepparent-stepchild relationship and must have been unmarried and under the age of 21 [142] as of June 17, 2024.[143]

The stepchild does not need to demonstrate continuous physical presence since June 17, 2014. However, they must have been continuously physically present in the United States since at least June 17, 2024, through the date of filing.[144] In addition, the stepchild's noncitizen parent must have entered into a legally valid marriage with a U.S. citizen on or before June 17, 2024.

If the marriage between the noncitizen parent and U.S. citizen spouse is terminated, either through divorce or death of one or both parents, the stepchild may still be eligible for parole in place if a valid marriage was entered into on or before June 17, 2024, and the stepchild meets the above criteria.[145] An

[134] Noncitizens who are immediate relatives of a U.S. citizen and had a valid nonimmigrant visa but have remained in the United States beyond the period of stay authorized were admitted and paroled may be eligible to apply for adjustment of status without seeking parole in place. *See* INA sec. 245(a), 8 U.S.C. 1255(a).

[135] *See* section VI.B. of this notice for a list of documents that may be provided to establish continuous physical presence.

[136] *See Matter of Hosseinian,* 19 I. & N. Dec. 453, 455 (BIA 1987) (''the validity of a marriage for immigration purposes is generally governed by the law of the place of celebration of the marriage''); *Matter of Rodriguez-Cruz,* 18 I. & N. Dec. 72, 73 (BIA 1981) (citing *Matter of P-,* 4 I. & N. Dec. 610, 613–14 (A.G. 1952) (observing that in the absence of a legislative definition of marriage for immigration purposes, ''the generally accepted rule is that the validity of a marriage is governed by the law of the place of celebration'')).

[137] *See* 8 CFR 204.2(a)(2) (requiring certificate of marriage issued by civil authorities).

[138] *See* Adjudicator's Field Manual, Chapter 21, Family-based Petitions and Applications available at *https://www.uscis.gov/sites/default/files/document/policy-manual-afm/afm21-external.pdf; see also* USCIS Policy Manual Volume 12, Part G, Spouses of U.S. Citizens, Chapter 2, Marriage and Marital Union for Naturalization, Section A, Validity of Marriage [12 USCIS–PM G.2(A)], available at *https://www.uscis.gov/policy-manual/volume-12-part-g-chapter-2* (last updated June 28, 2024).

[139] This includes polygamous marriages and marriages involving minors, or marriages involving close relatives. *See Matter of Manjoukis,* 13 I. & N. Dec. 705 (BIA 1971) (14 year old not able to enter into legally valid marriage as it would be void under state law); *Matter of H-,* 9 I. & N. Dec. 640 (BIA 1962) (a polygamous marriage, though valid where contracted, is not recognized for immigration purposes); *see also* INA sec. 101(a)(35), 8 U.S.C. 1101(a)(35); *Matter of Lovo-Lara,* 23 I. & N. Dec. 746, 752 n.3 (BIA 2005); *Matter of B-,* 5 I. & N. Dec. 698 (BIA 1954).

[140] USCIS does not recognize marriages that violate strong Federal public policy, *see Matter of H-,* 9 I. & N. Dec. 640 (BIA 1962), and there is a strong Federal policy against marriages to which one or both parties do not consent. The Violence Against Women Act Reauthorization Act of 2022 added a definition of forced marriage (''a marriage to which 1 or both parties do not or cannot consent, and in which 1 or more elements of force, fraud, or coercion is present''), and provided for grants for victims' services and legal assistance for victims of forced marriage. *See* 34 U.S.C. 12291(a)(16).

[141] *See* INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i).

[142] An immediate relative child's age is frozen at the time their Form I–130 or Form I–360 is filed in order to protect them from aging out before being able to adjust status. *See* INA sec. 201(f), 8 U.S.C. 1151(f).

[143] *See* INA sec. 101(b)(1)(B), 8 U.S.C. 1101(b)(1)(B).

[144] *See* Section VI.B. of this notice for a list of documents that may be provided to establish continuous physical presence.

[145] For the stepchild to be eligible for an immigrant visa petition or adjustment of status, additional requirements must be met, including that a bona fide relationship exists between the stepchild and U.S. citizen stepparent and, if applicable, eligibility for certain surviving relative benefits. *See Matter of Pagnerre,* 13 I. & N. Dec. 173 (BIA 1971) (when marriage is terminated by death but there was a continuing relationship thereafter

eligible stepchild may file on their own with their birth certificate and evidence of their parents' valid marriage without the participation of either parent.

Lack of Criminal History, National Security Concerns, Public Safety Concerns, or Border Security Concerns

Requestors must not have a disqualifying criminal history or otherwise constitute a threat to national security, public safety, or border security.[146] All pending criminal charges are disqualifying, regardless of the nature of the charges. A noncitizen may apply for parole in place once those charges are resolved.

All felony convictions, including felony driving under the influence (DUI) offenses, are disqualifying. Additionally, disqualifying criminal history includes convictions for the following offenses, regardless of whether the offense is classified as a felony.[147]

- Murder, torture, rape, or sexual abuse;
- Offenses involving firearms, explosive materials, or destructive devices;
- Offenses relating to peonage, slavery, involuntary servitude, and trafficking in persons;
- Aggravated assault;
- Offenses relating to child pornography, sexual abuse or exploitation of minors, or solicitation of minors;
- Domestic violence, stalking, child abuse, child neglect, or child abandonment; and
- Controlled substance offenses (other than simple possession of 30 grams or less of marijuana).[148]

All other criminal convictions,[149] excluding minor traffic offenses, will result in a rebuttable presumption of ineligibility for parole in place. This presumption can be rebutted on a case-by-case basis by weighing the seriousness of the conviction against mitigating factors relating to the conviction as well as other positive factors that suggest that the noncitizen merits a favorable exercise of discretion. The weight of the rebuttable presumption will be guided by the seriousness of the conviction.[150] A less serious conviction, or a conviction that does not raise public safety concerns, will result in a presumption that carries less weight and can be more easily rebutted. In adjudicating parole in place requests on an individualized, case-by-case basis, the nature and seriousness of the conviction will determine the evidence needed to overcome it. Factors that can be considered in overcoming the presumption may include, for example:

- Age of the conviction(s) (remoteness in time);
- Requestor's age at the time of the offense and conviction, including whether the requestor was a juvenile at the time of the offense;
- Sentence or penalty imposed;
- Evidence of subsequent rehabilitation;
- Nature of the conviction, including whether the conduct at issue was non-violent;
- Whether the conviction was an isolated offense when considered against the rest of the requestor's history (including consideration of whether multiple criminal convictions were on the same date and may have arisen out of the same act);
- Existence of a mental or physical condition that may have contributed to the criminal conduct;
- Requestor's particular vulnerability, including any physical or mental condition requiring treatment or care in the United States;
- Requestor's status as a victim of or witness to criminal activity, including domestic violence, or civil rights violation or labor rights violation under investigation by a labor agency, particularly if related to the criminal conduct at issue;
- Requestor's status, or that of their U.S. citizen spouse, as a current or former member of the U.S. military;
- Requestor's status as the primary caregiver for a U.S. citizen child or elderly parent or in-law;
- Evidence of requestor's good character, such as property ties, business ties, or value and service to the community;
- Length of requestor's presence in the United States;
- Requestor's status as a caregiver for an individual with disabilities, including U.S. citizen in-laws or siblings;
- Impact on other family members, including family members who are U.S. citizens and LPRs or
- Other factors USCIS considers relevant in its exercise of discretion.

B. Requestors with Unexecuted Final Removal Orders or Currently in Section 240 Proceedings

Requestors With Unexecuted Final Removal Orders

Noncitizens with unexecuted final removal orders [151] will be presumptively ineligible for parole in place under this process. However, DHS will evaluate, in the exercise of its discretion on a case-by-case basis, the facts and circumstances underlying the unexecuted final removal order in determining whether the noncitizen may overcome the presumption of ineligibility and be granted parole. Examples of information that may be relevant to DHS in its determination of whether the requestor has overcome the presumption of ineligibility include, but are not limited to:[152]

between petitioner and beneficiary, petitioner is regarded as the stepparent of beneficiary for immigration purposes and petition); *Matter of Mowrer,* 17 I. & N. Dec. 613 (BIA 1981) (where the parents have legally separated or where the marriage has been terminated by divorce or death, the appropriate inquiry is whether a family relationship has continued to exist as a matter of fact between the stepparent and stepchild); *see also* INA secs. 201(b)(2)(A)(i) and 204(*l*), 8 U.S.C. 1151(b)(2)(A)(i), 1154(*l*) (describing additional requirements with respect to benefits for certain surviving relatives); 8 CFR 204.2(b) (same).

[146] Indicators of national security concerns include, but are not limited to, participation in activities that threaten the United States or gang membership. Indicators of public safety concerns include, but are not limited to, serious criminal conduct or criminal history. Indicators of border security concerns include recent apprehension while attempting to enter the U.S. unlawfully or apprehension following unlawful entry after November 1, 2020; however, there is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[147] These categories of convictions also generally overlap with inadmissibility grounds for purposes of adjustment of status. *See* INA sec. 212(a), 8 U.S.C. 1182(a). DHS reserves its discretion to determine that other offenses are disqualifying, even if not listed.

[148] Noncitizens who were under the age of 18 but convicted of a felony or a disqualifying misdemeanor are considered to have disqualifying criminal history and are not eligible for this process.

[149] Although not generally considered convictions for immigration purposes, USCIS will nonetheless consider juvenile delinquency adjudications as resulting in a presumption of ineligibility. However, the presumption may be overcome by factors such as the nature of the underlying offense, requestor's age at the time of the commission of the underlying offense, the length of time that has passed since the adjudication, the sentence or penalty imposed, evidence of rehabilitation, and any other relevant information.

[150] Arrests or criminal charges that do not result in a conviction, such as where a requestor had been arrested but no charges were lodged, or a requestor had been arrested with charges lodged that were later dismissed, does not result in a presumption of ineligibility.

[151] Presumptive ineligibility applies to any removal order issued under INA 240, 8 U.S.C. 1229a, INA 235(b)(1), 8 U.S.C. 1225(b)(1), or any other provision of law. A final removal order under INA 240, 8 U.S.C. 1229a, is defined at INA 101(a)(47), 8 U.S.C. 1101(a)(47), and 8 CFR 1241.1.

[152] These examples solely concern DHS's determination regarding whether the presumption of ineligibility for parole in place has been overcome; they are distinct from any standards considered by DOJ EOIR in the context of a motion to reopen.

- Lack of proper notice;
- Age of the noncitizen at the time the removal order was issued;
- Ineffective assistance of counsel or being a victim of fraud in connection with immigration representation; or
- Other extenuating factors or considerations such as:
  - Inability to understand proceedings because of language barriers;
  - Status as a victim of domestic violence;
  - Other extenuating personal factors, such as requestor's limited resources (*e.g.,* lack of housing that would have impacted ability to appear);
- A physical or mental condition requiring care or treatment during immigration proceedings.[153]

Requestors in Section 240 Removal Proceedings

Eligible noncitizens who are currently in removal proceedings under INA section 240, including those who have been released under INA section 236(a) on bond or their own recognizance, and those without a final removal order, may submit a request to be considered for parole in place on a case-by-case basis, taking into account the totality of the circumstances, under this process.[154] Note, however, that a noncitizen who constitutes a national security, public safety, or border security concern is ineligible for parole under this process.[155] Further, this process does not preclude DHS from, in its discretionary authority, taking enforcement actions as deemed appropriate.

C. Factors Considered

As discussed in this notice, DHS's decision whether to grant parole in place to a requestor is a discretionary, case-by-case determination. Even if a requestor establishes that they have met all of the criteria for eligibility, USCIS will examine the totality of the circumstances in the individual case to determine whether the requestor merits a grant of parole in place as a matter of discretion for significant public benefit or urgent humanitarian reasons. In doing so, USCIS will weigh the positive factors against the negative factors that are present in the record. Requestors may provide evidence of positive factors to establish that they merit a favorable exercise of discretion, which may relate to, but are not limited to:

- Community ties;
- Advanced or young age;
- Length of presence in the United States;
- Status as a parent or caregiver of a U.S. citizen child or elderly parent or in-law;
- Status as a caregiver for an individual with disabilities, including U.S. citizen in-laws or siblings;
- Physical or mental condition requiring care or treatment in the United States;
- Status as a victim of or witness to a crime or civil rights violation, or labor rights violation under investigation by a labor agency;
- Impact on other family members, including family members who are U.S. citizens and LPRs;
- Status, or that of their U.S. citizen spouse, as a current or former member of the U.S. military; or
- Other positive factors about which the requestor wishes to provide information.

This is a non-exhaustive list of factors; USCIS may consider any relevant fact in the discretionary analysis.

VI. Filing Requirements and Processing Steps

A. Form

Requestors seeking parole in place as the spouse or stepchild of a U.S. citizen must submit Form I–131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens, online with the appropriate fee. To submit Form I–131F, requestors must both complete the required form fields and submit the required evidence establishing eligibility.

B. Documentation

Requestors must submit the required evidence establishing eligibility, in compliance with Form I–131F instructions. Required documentation for noncitizen spouse requestors includes the following:

- Proof of identity, which may include:
  - Valid State or country driver's license or identification;
  - Birth certificate with photo identification;
  - Valid passport; or
  - Any government issued document bearing the requestor's name, date of birth, and photo.[156]
- Evidence establishing their continuous physical presence since at least June 17, 2014, which may include, but is not limited to:
  - Internal Revenue Service (IRS) tax transcripts listing tax information;
  - Rent receipts or utility bills;
  - Deeds, mortgage statements, or rental contracts;
  - Bank, credit card, or loan statements showing regular transactions;
  - Insurance policies;
  - Automobile license receipts, title, or registration;
  - Hospital or medical records;
  - School records (letters, report cards, etc.);
  - Attestations to the requestor's physical presence by religious entities, unions, or other civic or community organizations;
  - Official records from a religious entity confirming the requestor's participation in a religious ceremony;
  - Birth certificates for children born in the United States;
  - Money order receipts for money sent into or out of the United States; or
  - Any other document that shows that the requestor maintained continuous physical presence in the United States for the requisite time period.
- Evidence establishing a valid marriage between the noncitizen spouse and U.S. citizen:
  - Current marriage certificate showing a legally valid marriage took place on or before June 17, 2024;
  - Any divorce decree, annulment decree, or death certificate showing that the noncitizen spouse's and their U.S. citizen spouse's prior marriages were terminated (if applicable); and
  - Death certificate of U.S. citizen spouse (if applicable).
- Proof of the U.S. citizenship status of the spouse/stepparent, which must include one of the following:

[153] A decision by USCIS to grant parole in place to a requestor with an unexecuted removal order does not rescind, cancel, vacate, or otherwise remove the existence of the unexecuted removal order. DOJ EOIR has sole jurisdiction over the decision to reopen removal proceedings under INA section 240, 8 U.S.C. 1229a, *see* INA sec. 240(c)(7), 8 U.S.C. 1229a(c)(7); such reopening vacates any final removal order issued under INA section 240, 8 U.S.C. 1229a, *see Nken* v. *Holder,* 556 U.S. 418, 429 n.1 (2009). An unexecuted removal order issued by DOJ EOIR under INA section 240, 8 U.S.C. 1229a, remains in existence, notwithstanding a grant of parole in place, unless and until the INA section 240 proceedings are reopened by an immigration judge or the BIA. Unexecuted removal orders issued by DHS (such as an order of expedited removal under INA section 235(b)(1), 8 U.S.C. 1225(b)(1), or an administrative order of removal under INA section 238(b), 8 U.S.C. 1228(b)), likewise remain in existence unless and until they are vacated, canceled, or rescinded by the relevant issuing authority within DHS in that agency's sole discretion.

[154] This includes those with a pending appeal to the BIA, as their removal order would not be administratively final pending resolution of the appeal.

[155] *See, e.g.,* September 2021 Guidelines, *supra* note 81. As noted in the September 2021 Guidelines, noncitizens present border security concerns if they were apprehended while attempting to enter the U.S. unlawfully or if they entered unlawfully after November 1, 2020. There is an exception to this for stepchildren who otherwise meet the criteria for parole in place under this process.

[156] Expired documents may be provided in conjunction with other documents.

○ The spouse's/stepparent's U.S. birth certificate (if the spouse has held U.S. citizenship since birth);
○ The spouse's/stepparent's Certificate of Naturalization;
○ The spouse's/stepparent's Certificate of Citizenship;
○ The spouse's/stepparent's Form FS–240, Consular Report of Birth Abroad; or
○ The biographical page of the spouse's/stepparent's current U.S. passport.

- Arrest records and court dispositions of any arrests, charges, and convictions (if applicable).

Required documentation for noncitizen stepchild requestors includes the following:

- The birth certificate of the stepchild listing the name of the noncitizen parent as a natural parent;
- Proof of identity (as listed above);
- Evidence establishing their continuous physical presence since June 17, 2024 (as listed above);
- Evidence establishing a legally valid marriage between the noncitizen stepchild's noncitizen parent and the noncitizen stepchild's U.S. citizen stepparent took place on or before June 17, 2024 (as listed above);
- Proof of the U.S. citizenship status of the spouse/stepparent (as listed above);
- Arrest records and court dispositions of any arrests, charges, and convictions (if applicable).

C. Processing Steps

This parole in place process will be implemented in accordance with the lessons learned from similar processes, while building on technological advances and efficiencies in USCIS processing.

Filing Procedure

Each requestor must submit Form I–131F with the applicable filing fee, as listed on Form G–1055, Fee Schedule (currently $580). Fee waivers are not available, and requests must be submitted online. For information on creating a USCIS online account, visit *www.uscis.gov/file-online/how-to-create-a-uscis-online-account.* Each requestor, including noncitizen stepchild requestors, must file a separate Form I–131F and pay the fee individually.

Biometrics Submission

After the requestor files Form I–131F, they will be required to provide biometrics to USCIS, including fingerprints, photographs, and a signature. The requestor's biometric information will be used to conduct background checks, including checks for criminal history records, verify identity, determine eligibility for requested benefits, create immigration documents (*e.g.,* Employment Authorization Documents), or for any other purpose authorized by the INA.[157] After the requestor files the Form I–131F online, USCIS will notify the noncitizen in writing of the time and location for a biometric services appointment. Failure to appear for biometrics submission may result in a denial of the parole in place request.

Case-by-Case Consideration for Parole

Noncitizens who meet the criteria listed in this notice may be considered for a discretionary grant of parole on a case-by-case basis. USCIS may grant parole in place to the requestor if USCIS determines that there is a significant public benefit or urgent humanitarian reason for parole and that the requestor merits a favorable exercise of discretion in the totality of the circumstances.

USCIS may prioritize the adjudication of Form I–131F for noncitizens who previously filed a Form I–601A. In establishing this parole in place process, DHS considered that certain noncitizens eligible for the parole in place process will have already prepared, filed, and paid a filing fee for a Form I–601A. USCIS has determined that prioritizing the adjudication of Forms I–131F filed by these noncitizens is justified in recognition that they availed themselves of existing processes to pursue an immigrant visa but may nonetheless wish to pursue parole in place to avoid the costs and potential separation or disruption to their family that consular processing entails. Additionally, prioritizing this population may have the downstream effect of reducing the adjudicatory resources needed for pending Forms I–601A as noncitizens who are granted parole in place through this process may subsequently apply, and be approved, for adjustment of status to that of an LPR.

Upon a grant of parole in place, the noncitizen will receive a Form I–797, Notice of Action, and a Form I–94, Arrival/Departure Record.

Parole Period

If granted parole in place on a case-by-case basis in the exercise of discretion, parole will generally be granted for a period of up to three years. Parole may be terminated at any time upon notice at DHS's discretion pursuant to 8 CFR 212.5(e)(2)(i). DHS does not contemplate a re-parole process at this time.

In addition, USCIS, in its sole discretion, may impose conditions on a grant of parole with respect to any noncitizen under this process, and it may request verification of the noncitizen's compliance with any such condition at any time.[158] Violation of any condition of parole may lead to termination of the parole in accordance with 8 CFR 212.5(e).

Employment Authorization

If parole in place is granted, the parolee will be eligible to request an Employment Authorization Document (EAD) pursuant to 8 CFR 274a.12(c)(11), as recipients of parole under INA section 212(d)(5), 8 U.S.C. 1182(d)(5). An individual seeking employment authorization as a parolee (category (c)(11)) may request a waiver of the Form I–765, Application for Employment Authorization, fee by submitting Form I–912, Request for Fee Waiver along with the Form I–765.

Subsequent Form I–130 or Form I–485

A grant of parole in place does not establish eligibility for an immigrant visa petition or a presumption that the marriage is bona fide for purposes of an immigrant visa petition or other immigration benefits. Following a grant of parole to a noncitizen, the U.S. citizen spouse or stepparent of the noncitizen is encouraged to file a Form I–130, or, in the case of certain widow(er)s, the noncitizen may file Form I–360, concurrently with the Form I–485 if they have not filed a standalone Form I–130 or Form I–360 already. For purposes of Form I–130 based on marriage, a petitioner must demonstrate that they entered into a bona fide marriage with the beneficiary, and for a Form I–130 for a stepchild, the petitioner must demonstrate they entered into a bona fide marriage to the beneficiary's noncitizen parent. There are additional requirements for Form I–360 for certain widow(er)s and their children, including filing deadlines, residence requirements, and marital status requirements.[159] A stepchild may remain eligible for an immigrant visa despite their parent's marriage to a U.S. citizen being terminated through death of either parent or divorce, so long as a bona fide stepparent-stepchild relationship continued to exist following the death or divorce.

[157] As authorized by the INA, biometric information collected in this process may be used by other DHS components. *See also* 8 CFR 103.16. *See also* discussion on information use and disclosure in this notice.

[158] *See* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[159] *See* INA secs. 201(b)(2)(A)(i), 204(l), 8 U.S.C. 1151(b)(2)(A)(i), 8 U.S.C. 1154(l).

Further, a discretionary grant of parole does not in itself establish eligibility for adjustment of status to that of an LPR under INA section 245(a), 8 U.S.C. 1255(a). As discussed elsewhere in this notice, a grant of parole would satisfy the requirement under INA section 245(a), 8 U.S.C. 1255(a), that the applicant has been inspected and admitted or paroled by an immigration officer. The noncitizen, however, must satisfy all other requirements for adjustment of status, including establishing that they are not inadmissible under any applicable grounds.[160] As noted, if the noncitizen is granted parole in place, the noncitizen and their spouse or stepparent would need to file Form I–130 (if not previously filed) and Form I–485.[161]

Information Use and Disclosure

DHS generally will not use information contained in a request for parole in place under this process for the purpose of initiating immigration enforcement action against the requestor unless DHS determines, in its discretion, the requestor poses a threat to national security, public safety, or border security.[162] This process does not preclude DHS from, in its discretionary authority, taking enforcement actions as deemed appropriate, in accordance with the INA and consistent with governing policies and practices, against noncitizens who may be eligible or who have pending applications for parole under this process. Information provided under this process may be otherwise disclosed consistent with statutory authorities, obligations, and restrictions, as well as governing privacy and information-sharing policies.

D. Termination and No Private Rights

As provided under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), parole decisions are made by the Secretary ''in his discretion.'' This process is being implemented as a matter of the Secretary's discretion, and the Secretary retains the sole discretion to terminate parole in place under this process at any point. It is not intended to, shall not be construed to, may not be relied upon to, and does not create any rights, privileges, benefits, substantive or procedural, enforceable by any party in any matter, civil or criminal, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

VII. Considerations in the Establishment of This Parole in Place Process

In establishing this process, DHS considered various alternatives, as well as the impacts on resources and processing and the broader impacts on both the Federal government and State and local governments.

A. Alternatives to This Process

In exercising the Secretary's discretionary parole authority to establish a parole in place process, DHS considered various alternatives to the process.

First, DHS considered whether it could instead dedicate additional resources to the processing of pending Forms I–601A. As discussed elsewhere in this notice, the provisional unlawful presence waiver process allows certain noncitizens, including spouses of U.S. citizens, to obtain a provisional unlawful presence waiver prior to their departure from the United States to pursue an immigrant visa at a U.S. embassy or consulate abroad. It is intended to reduce the time noncitizens must spend apart from their U.S. citizen family members while increasing certainty that they will be granted a waiver of the inadmissibility ground that is triggered once they depart.[163] However, the provisional unlawful presence waiver process still entails some period of families being separated because it requires consular processing abroad after approval of the Form I–601A, often at great financial cost. It also involves some level of uncertainty and risk. The grant of a provisional waiver is not a guarantee that the waiver of inadmissibility or the immigrant visa, will ultimately be granted.[164] Likewise, a grant of parole in place does not guarantee that an application for adjustment of status will be approved, but because the application process takes place while the applicant is in the United States, noncitizens may be more likely to pursue this option. For some families, even a short-term separation from a family member, whose income or other household contributions are needed, may be untenable.

Moreover, even if, as an alternative to this process, USCIS dedicated additional resources to provisional waiver processing, doing so would not provide the previously noted significant public benefit of this process. As described in Section IV of this notice, this process furthers diplomatic relationships and foreign policy objectives. It also sets out a streamlined and less resource intensive adjudication, as compared to the more complex and resource intensive provisional waiver process which involves determining if the applicant has met their burden of proving they would be inadmissible only for unlawful presence upon departure, and that they have demonstrated extreme hardship to a qualifying relative.[165] Although USCIS has significantly increased resources devoted to the Form I–601A backlog relative to previous years, the backlog of pending applications will still take at least three years to be meaningfully reduced. Accordingly, although USCIS considered dedicating even more resources to Form I–601A processing, it concluded that doing so would not effectively address the backlog in the near term or support timely adjudications of other workloads as compared to the processing efficiencies gained through implementation of this parole in place process.

USCIS anticipates that its adjudication of parole requests under this process will be less resource-intensive than the adjudication of Form I–601A applications, given process efficiencies that USCIS has identified in adjudicating parole requests in other parole processes, and considering the complexity and resources required for the I–601A adjudication. And unlike the provisional waiver process, parole in place will not entail a period of separation from U.S. citizen family members or, alternatively, require U.S. citizen family members to depart the United States with the noncitizen. Additionally, it will obviate the need for consular processing, thereby diverting noncitizens with parole in place from DOS backlogs and reducing wait times for other noncitizens seeking visas at U.S. consulates.

While the Form I–601A process will remain critical for other categories of immigrant visa applicants who are not eligible for this process, parole in place offers a less onerous path for a subset of the I–601A-eligible population who have lived in the United States for at least 10 years, are married to U.S. citizens or are the noncitizen

[160] Furthermore, by avoiding the need to depart the United States to seek an immigrant visa at a U.S. embassy or consulate, the noncitizen would not trigger the inadmissibility grounds at INA sec. 212(a)(9)(B), 8 U.S.C. 1182(a)(9)(B), by seeking admission after such departure.

[161] Additionally, there may be instances where the noncitizen would also have to file the Form I–601, Application for Waiver of Grounds of Inadmissibility.

[162] *See, e.g.,* September 2021 Guidelines, *supra* note 81.

[163] *See* 78 FR 536 (Jan. 6, 2013).

[164] *See* 8 CFR 212.7(e)(12)(i) (noting the conditions that must be satisfied for the provisional unlawful presence waiver to take effect).

[165] 8 CFR 212.7(e).

stepchildren of U.S. citizens, have no disqualifying factors, and merit a favorable exercise of discretion.

DHS acknowledges that there will be an increase in filings of Form I–765, as well as an increase in Form I–130 and Form I–485 filings but notes that these forms have associated filing fees that cover the cost of adjudication, and USCIS has implemented streamlined processing for certain categories of employment authorization documents, and other immigration benefit requests, including those filed by parolees. In considering all the factors, DHS determined that the benefits of implementing this process, as discussed in Section IV of this notice, outweigh any additional workload assumed by USCIS.

Second, DHS has considered alternative approaches in designing this process. Specifically, in proposing parameters for this process, DHS considered the following alternatives:

• *Length of requisite physical presence:* DHS considered the time period by which a requestor would likely have established deep ties to their communities in the United States in determining the period of continuous physical presence required to access this process. In making this determination, DHS considered whether a longer period (such as 15 years) or a shorter period (such as five or eight years) was more appropriate and considered estimates of the potential population for each of these time periods. Because Congress has articulated a 10-year length of continuous presence as a prerequisite for certain non-LPR noncitizens to seek lawful permanent residence through a separate process known as cancellation of removal,[166] DHS concluded that 10 years would be an appropriate length of time to require noncitizens to have been present in the United States to access this process.

DHS also considered whether the noncitizen could continue to accrue the required 10 years of continuous physical presence until the time a parole request is filed, or whether the noncitizen must have accrued the 10 years by the time the process was announced. DHS determined that requiring continuous physical presence to have accrued by a certain date provides greater predictability and certainty about the scope of the potential population, which in turn will assist DHS in determining the appropriate resources to dedicate to this process. Requiring 10 years of continuous physical presence by June 17, 2024 for noncitizen spouses of U.S. citizens also provides clarity to the public and avoids unintentionally incentivizing any irregular migration by noncitizens who might otherwise seek to enter the United States to access this process.

• *Marriage to a U.S. citizen:* In requiring noncitizen spouses of U.S. citizens to have a legally valid marriage on or before June 17, 2024, DHS considered whether marriages that took place after this date could nevertheless be qualifying. DHS determined that requiring marriages to have taken place by June 17, 2024 would better promote process integrity, prevent potential fraud, and provide greater certainty about the scope of the potential population.

DHS also considered whether marriage to an LPR could be a qualifying factor and determined against it because a primary goal of establishing this proposed process is to remove a barrier to an immigration benefit that may otherwise be immediately available to the noncitizen. When a noncitizen marries a U.S. citizen, they qualify as an ''immediate relative'' under the INA and are able to immediately apply for LPR status (*i.e.,* without needing to wait for an immigrant visa to become available).[167] Noncitizen spouses of LPRs who lack lawful status do not qualify as ''immediate relatives'' and therefore do not have an immediate path to adjustment of status (even if granted parole) because they must wait for an immigrant visa to become available before they can apply for LPR status. They also are subject to other ineligibility provisions barring adjustment of status that are not applicable to spouses of U.S. citizens.[168]

DHS considered whether the marriage must be of a specified duration (*e.g.,* two years) at the time of the parole in place request, particularly to address potential concerns about marriage fraud and integrity of this process. The fixed date by which the marriage must have taken place (June 17, 2024), eliminates any concern that individuals may marry solely to take advantage of this process. Moreover, USCIS will further assess the validity of the marriage for immigration purposes, including a thorough review of the bona fides of the marriage, during its consideration of the Form I–130 and Form I–485. In its consideration of these forms, USCIS will employ its standard, rigorous procedures to detect potential marriage fraud, further ensuring that fraudulent marriages will not serve as the basis for a grant of adjustment of status following access to this parole in place process. Finally, USCIS can grant adjustment of status to conditional lawful permanent residents on the basis of marriage to a U.S. citizen when the marriage is less than two years in length. Therefore, DHS determined that this process will not require that the marriage be of a specified length, though DHS requires that the marriage be legally valid in the place of celebration as of June 17, 2024.

DHS also decided to include widow(er)s who entered into a legally valid marriage with a U.S. citizen prior to June 17, 2024. DHS believes that including this population furthers the goals of the process because widow(er)s of U.S. citizens may continue to be eligible for immigrant visa petition approval and to apply to adjust status if certain requirements are met. DHS also notes that including this population is consistent with the process for family members of military service members, in which the widow(er) of a deceased U.S. citizen service member is eligible for parole in place. To be eligible for immigrant visa petition approval and be eligible to apply to adjust status, the widow(er) must have a Form I–130 filed on their behalf at the time of the U.S. citizen's death or file a Form I–360 within two years of the U.S. citizen's death. The widow(er) must also be unmarried when their immigrant visa petition is adjudicated. A widow(er)'s children may also be eligible for immigrant visa petition approval and to adjust status as the derivative child of the widow(er). For these reasons, DHS determined that, based on continued eligibility to apply for an immigration benefit and adjustment of status, spouses and stepchildren of deceased U.S. citizens could qualify for this parole process if they demonstrate the additional qualifying criteria at the time of filing an immigrant visa petition.

• *Stepchildren of a U.S. citizen:* Noncitizens who are granted parole under this process may have children in the United States who lack lawful status and who are unable to adjust their status without facing the same barriers that their noncitizen parents would encounter in the absence of a parole in place grant under this process.

DHS determined that providing these noncitizen stepchildren access to this process is necessary to fully meet its objective of promoting the unity and stability of families in which a U.S. citizen is married to a noncitizen who lacks lawful status. DHS estimates that 50,000 noncitizen children of

[166] *See* INA sec. 240A(b)(1)(A), 8 U.S.C. 1229b(b)(1)(A).

[167] *See* INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i); 8 CFR 204.1(a)(1).

[168] *See, e.g.,* INA sec. 245(c)(2), 8 U.S.C. 1255(c)(2).

noncitizen spouses who are married to U.S. citizens may be eligible to request consideration under this process. However, DHS is requiring that the noncitizen stepchild have been continuously physically present in the United States without admission or parole since at least June 17, 2024, and through the date of filing, since children may be under the age of 10 or otherwise unable to meet the 10 years required for noncitizen spouses of U.S. citizens. Additionally, as with the physical presence requirement for spouses, requiring physical presence in the United States as of a date prior to announcing this process avoids unintentionally incentivizing any irregular migration by noncitizens who might otherwise seek to enter the United States to access this process.

DHS also considered limiting this parole in place process to children whose noncitizen parent was also requesting parole. DHS determined that noncitizen stepchildren of a U.S. citizen may apply for an immigrant visa petition separately even if the noncitizen parent does not have an immigrant visa or status, and therefore should not be excluded from this process. A qualifying noncitizen stepchild of a U.S. citizen may be eligible as a beneficiary of Form I–130 based on their relationship with the U.S. citizen stepparent. This is the case even if the parents divorced or the noncitizen parent died. As such, DHS determined that noncitizen stepchildren who would otherwise be eligible as a beneficiary of Form I–130 based on a stepparent-stepchild relationship, notwithstanding divorce of the parents or death of the noncitizen parent, should also be eligible to request parole in place under this process.

- *Criminal history and threats to national security, public safety or border security:* DHS determined that noncitizens with serious criminal convictions will be ineligible for parole under this process.[169] DHS also determined that other criminal convictions (other than minor traffic offenses) will result in a presumption of ineligibility for parole. This presumption can be rebutted on a case-by-case basis by weighing the seriousness of the conviction against positive factors that overcome the presumption.[170] Additionally, all requestors will undergo rigorous national security and public safety vetting as part of this process. Those individuals who pose a threat to national security, public safety or border security[171] will be disqualified from this process and, where appropriate, will be referred to law enforcement. In making these determinations, DHS considered that certain criminal convictions were likely to render a noncitizen statutorily ineligible for adjustment of status, and decided that those criminal convictions that are disqualifying for this process would generally overlap with the statutory inadmissibility grounds. In addition, DHS determined that noncitizens with pending criminal charges will be ineligible for parole in place under this process until those charges are resolved.

- *Parole period length:* DHS determined that a three-year grant of parole was most appropriate for this process, though it considered both shorter and longer periods of time. Other processes, such as the family reunification parole processes, provide for up to a three-year grant of parole.

After being granted parole in place, the noncitizen will generally be eligible to apply to adjust their status if they have an approved Form I–130 or their Form I–485 is accompanied by a Form I–130. The benefits of parole (including lawful presence and employment authorization) will remain in effect for the period of parole. Currently, the median processing time for an immediate relative Form I–130, when filed separately from a Form I–485, is 11.4 months, for Form I–360 (all categories) is 3.2 months, and the median processing time for a family-based Form I–485, when filed separately from a Form I–130, is 9.4 months.[172] Concurrent filing of these two forms is permitted for noncitizen spouses of U.S. citizens. Assuming that noncitizens would need time to compile evidence for these applications, save the necessary funds to pay fees, and file these applications, a three-year grant of parole will provide an appropriate amount of time to obtain adjustment of status following the grant of parole in place based on median USCIS processing times. A shorter timeframe would likely be insufficient to cover the time needed to prepare and file the adjustment application, while a longer timeframe would risk disincentivizing parolees from timely applying for adjustment of status.

In making this determination, DHS considered that parole in place is granted for certain military family members for a one-year period, which currently is subject to subsequent periods of parole in one-year increments, and is also fee exempt. Additionally, military parole in place is available for a broader category of relatives: spouses, widow(er)s, parents, and sons and daughters of U.S. citizen or LPR military members and veterans, whereas this process is open only to certain noncitizen spouses and stepchildren of U.S. citizens who may have an immediate path to adjustment of status. However, in more recent parole processes, DHS has found that a longer parole period is more efficient for the public and the agency as it reduces the need for recipients to seek re-parole.[173] A three-year parole period was therefore determined to be appropriate for certain noncitizen spouses and stepchildren of U.S. citizens to ensure that they have sufficient time to obtain adjustment of status during their parole period, especially given that re-parole for requestors granted parole under this process is not contemplated at this time.

- *Removal proceedings:* DHS considered whether and how a parole in place process should be available to noncitizens in pending removal proceedings under INA section 240, 8 U.S.C. 1229a. Given that some noncitizens in removal proceedings may be eligible to adjust status if granted parole, USCIS will consider requests for otherwise eligible noncitizens in pending removal proceedings who do not have a final order of removal. This includes those who have been released on bond or their own recognizance under INA section 236(a), 8 U.S.C. 1226(a), provided they remain applicants for admission. USCIS will coordinate with ICE OPLA as it deems appropriate. A noncitizen who is considered a national security, public safety or border security concern will be generally disqualified from receiving

[169] *See* Section V.A. of this notice for the full list of disqualifying criminal convictions.

[170] *See id.* for a list of factors USCIS may consider in determining whether the requestor has overcome the presumption.

[171] There is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[172] *See* Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year, available at *https://egov.uscis.gov/processing-times/historic-pt.*

[173] *See, e.g., Implementation of a Family Reunification Parole Process for Colombians,* 88 FR 43591 (July 10, 2023); *Implementation of a Family Reunification Parole Process for Ecuadorians,* 88 FR 78762 (Nov. 16, 2023); *Implementation of a Family Reunification Parole Process for Salvadorans,* 88 FR 43611 (July 10, 2023); *Implementation of a Family Reunification Parole Process for Guatemalans,* 88 FR 43581 (July 10, 2023); *Implementation of a Family Reunification Parole Process for Hondurans,* 88 FR 43601 (July 10, 2023); *Implementation of Changes to the Cuban Family Reunification Parole Process,* 88 FR 54639 (Aug. 11, 2023); *Implementation of Changes to the Haitian Family Reunification Parole Process,* 88 FR 54635 (Aug. 11, 2023).

parole in place pursuant to this process. However, given the overall objective to preserve family unity, there is an exception for border security concerns for stepchildren who were placed into proceedings after November 1, 2020, who otherwise meet the criteria for parole in place under this process. In such cases, USCIS will consider any extenuating or mitigating factors, including family unity, age at the time of placement in proceedings, or other factors that USCIS considers relevant in the exercise of discretion. The exception for border security for certain noncitizen stepchildren of a U.S. citizen is consistent with the eligibility requirement for this process as stated in section V.A. of this preamble (explaining that noncitizen stepchildren may request parole in place under this process), the requirement for continuous physical presence in the United States only covers June 17, 2024 through the date of filing.

- *Prior removal orders:* DHS considered whether noncitizens with unexecuted final removal orders should be eligible for this process. DHS determined that noncitizens with unexecuted final removal orders will be presumptively ineligible for parole under this process. DHS recognizes that a noncitizen may have grounds to request that an immigration judge or the BIA reopen their immigration proceedings when they are otherwise eligible for adjustment of status, and thus determined that categorical ineligibility for this parole process would be inappropriate. As a result, DHS will evaluate, in the exercise of its discretion on a case-by-case basis, the facts and circumstances underlying the unexecuted final removal order and all other mitigating factors presented in determining whether the noncitizen may overcome the rebuttable presumption of ineligibility and be granted parole in place.[174]

DHS acknowledges that granting parole in place to requestors with unexecuted removal orders could increase the volume of motions to reopen removal proceedings that EOIR will receive, and which ICE OPLA will review and respond to, as appropriate. DHS believes that a rebuttable presumption of ineligibility, and consideration of the factors listed in Section V.B. of this notice strike an appropriate balance to providing access to parole in place under this process to noncitizens who may have grounds to support the granting of parole in place. If granted parole in place, noncitizens who are prima facie eligible for adjustment of status may independently pursue reopening and dismissal of their case before EOIR to permit the filing of an adjustment of status application before USCIS.

- *Form I–130:* DHS considered whether the noncitizen should be required to have an approved Form I–130 prior to being granted parole in place under this process, given that it is a prerequisite for access to the FRP processes. However, DHS anticipates that many noncitizens who will benefit from this process may not yet have filed a Form I–130 because they are currently ineligible to adjust status and may not wish to pursue consular processing given the prospect of prolonged separation from their U.S. citizen family members. Requiring a previously approved Form I–130 could disqualify a significant portion of this population from this process and would be less effective in achieving the significant public benefits described in this notice, including of stabilizing and unifying families and enabling these noncitizens to contribute more fully to the U.S. economy. Moreover, immediate relatives who have been paroled are eligible to file their Form I–130 concurrently with their Form I–485. Requiring that a noncitizen file a Form I–130—either alone, or concurrently with a Form I–485—to request parole in place under this process would create significant inefficiencies and run counter to DHS' goal of reducing strain on limited government resources.
- *Form I–134:* DHS considered whether the noncitizen should be required to file Form I–134, Declaration of Financial Support, which USCIS uses in certain circumstances to determine whether applicants or beneficiaries of certain immigration benefit requests have sufficient financial resources or financial support to pay for expenses during their temporary stay in the United States.[175] However, DHS declined to include a requirement for submission of Form I–134 for this parole in place process. USCIS has not generally required Form I–134 for parole in place requests. For the existing military parole in place process, noncitizen family members of U.S. military service members who are granted parole in place are required to file Form I–864, Affidavit of Support Under INA Section 213A when they file for adjustment of status. Form I–864A is executed by a sponsor as evidence that the noncitizen has adequate means of financial support and are not likely at any time to become a public charge under INA section 212(a)(4)(A), 8 U.S.C 1182(a)(4)(A). Similarly, following a grant of parole in place through this process, noncitizen spouses and noncitizen stepchildren are expected to apply to adjust status, at which time they too will be required to submit a Form I–864. Once adjustment of status is granted, the sponsorship obligations associated with the Form I–864 remain in effect until, for example, the noncitizen naturalizes or is credited with 40 quarters of work.[176]

DHS has, therefore, determined that requiring a noncitizen to submit a Form I–134 as part of their parole in place request when shortly thereafter, they will be required to submit a Form I–864 with their adjustment of status application, is unnecessarily duplicative and adds an extra burden on requestors. Moreover, requiring USCIS officers to adjudicate similar but unrelated evidence related to financial support would create inefficiencies that run counter to DHS's goals of reducing strain on limited government resources and facilitating access to adjustment of status through this process.

- *Inadmissibility:* DHS additionally considered requiring the requestor to demonstrate that they are not inadmissible under any ground set forth in INA section 212(a), 8 U.S.C. 1182(a), to be granted parole under this process. This parole in place process is meant for those requestors who are otherwise eligible to adjust status. As noted elsewhere in this notice, serious criminal convictions, including certain convictions that would render the requestor inadmissible and therefore ineligible for adjustment of status, will be disqualifying for this process; other criminal convictions, as well as prior, unexecuted removal orders, will trigger a rebuttable presumption of ineligibility for this process. However, detailed consideration of grounds of inadmissibility—including whether applicable grounds can be waived—is a complex analysis undertaken during the Form I–485 adjustment of status adjudication. Requiring parole in place adjudicators to conduct the inadmissibility analysis that is normally conducted at the adjustment of status stage would be an inefficient, duplicative, and costly use of USCIS resources. Therefore, when assessing eligibility for parole in place, while DHS will consider the requestor's criminal and immigration history and any other

[174] *See* Section V.A. of this notice for a list of examples of information that may be relevant to DHS in its determination as to whether the requestor has overcome the presumption of ineligibility.

[175] DOS also requests applicants or beneficiaries of certain immigration benefit requests submit Form I–134 in certain circumstances.

[176] *See* 8 CFR 213a.3(e)(2)(i).

adverse factors that could bear upon admissibility, it will not import the admissibility analysis conducted at the Form I–485 stage into the parole adjudication.

As discussed elsewhere in this notice, a grant of parole in place would satisfy the requirement under INA section 245(a), 8 U.S.C. 1255(a), that the adjustment applicant has been ''inspected and admitted or paroled'' by an immigration officer. This process is meant for requestors who are otherwise eligible for adjustment of status and who merit a favorable exercise of discretion; the noncitizen, however, when applying to adjust status, must satisfy all other requirements for adjustment of status, including establishing that the requestor is not inadmissible under any applicable grounds.

B. Resource Considerations and Impacts on USCIS Processing

DHS has considered the potential impact of this process on noncitizens applying for other immigration benefits. While there could be an impact initially on wait times for other USCIS-administered immigration programs and processes, over time, this process will assist USCIS in creating efficiencies in other workloads. For example, USCIS will be able to reduce processing times more quickly for the Form I–601A because some noncitizens who would have filed a Form I–601A and pursued consular processing would instead request parole in place and adjustment of status. DHS also considered the potential impact of this process on USCIS operations. This process will result in an increased number of individuals visiting USCIS Application Support Centers (ASC) to have their biometrics collected and will require USCIS to divert some resources to develop the technical solutions to administer this process and complete the adjudications. However, because USCIS will require all parole in place requestors to pay a fee, it is anticipated that the agency will recover fully the costs associated with this workload.

USCIS also anticipates that this process will lead to increased filings of Forms I–485 because some noncitizens who would otherwise seek lawful permanent residence via consular processing, or would have remained without status, will now seek adjustment of status. However, USCIS expects that the costs to the agency of adjudicating increased volumes of Forms I–485 will be in large part recovered by the Form I–485 fees. DHS has also determined that any additional adjudicatory costs are warranted by the significant public benefits described throughout this notice.

Finally, the process will provide needed relief to U.S. embassies and consulates, some of which have significant backlogs of noncitizens awaiting interviews for immigrant visa applications.

C. Potential Impact on Federal Government and Access to Federal Benefits

DHS has considered the impact of the proposed process on eligibility for Federal public benefits. Only noncitizens who are considered ''qualified aliens'' may access certain Federal public benefits programs.[177] ''Qualified aliens'' include noncitizens paroled under INA section 212(d)(5), 8 U.S.C. 1182(d)(5), for a period of at least one year, as well as lawful permanent residents and several other categories.

However, nearly all of these benefits programs are available only to noncitizens who have been in ''qualified'' status for at least five years. For example, the Supplemental Nutrition Assistance Program (SNAP) generally requires noncitizens to have been in ''qualified'' status for five years before they may potentially receive benefits. Medicaid, Temporary Assistance for Needy Families (TANF), and the Children's Health Insurance Program (CHIP) similarly generally require five years in ''qualified'' status for noncitizens who entered after August 22, 1996.[178] Given that noncitizens eligible for this process are estimated on average to have lived in the United States for 23 years,[179] DHS anticipates that the majority of those who may be considered for parole in place will have entered after this date. Accordingly, most noncitizens who receive parole pursuant to this process will not be eligible to access public Federal benefits for at least five years. And, although the provision of parole in place will start the five-year waiting period prior to adjustment of status, DHS anticipates that the uptake of these public benefits would likely be curtailed by the noncitizen's access to lawful employment. Upon receipt of employment authorization and gainful employment, spouses and stepchildren of U.S. citizens may no longer need or qualify for public benefits. Additionally, noncitizens' eventual potential ability to access benefits after being granted parole through this process may well be offset by increased tax revenue and other economic benefits created by their ability to obtain lawful employment.

Unlike the analysis that most noncitizens who receive parole pursuant to this process will not be eligible to access public benefits for at least five years, Cuban and Haitian nationals who are granted parole are eligible for special ''Cuban-Haitian Entrant Program'' (CHEP) benefits.[180]

D. Potential Impact on States

DHS considered the potential impact of the proposed process on State budgets, including noncitizens' access to means tested benefits, driver's licenses, and public education. As discussed elsewhere in this notice, DHS also considered the potential economic benefit to State and local governments through the provision of employment authorization to eligible parolees, and increased tax revenue to States that will result from this process. A comprehensive quantified accounting of local and State fiscal impacts specifically due to this parole in place process is not possible, in part due to the case-by-case nature of the determinations. DHS cannot predict with the available information the impact these noncitizens might have on State and local programs or the degree they will contribute to State and local budgets.

Access to means-tested benefits for eligible noncitizens varies at the State level. States can accept Federal funds to assist them with providing such benefits and have the authority to determine the eligibility of qualified noncitizens for certain designated Federal programs including TANF, Medicaid, and CHIP. Several States–including Indiana, Mississippi, Ohio, South Carolina, and Texas–deny some qualified noncitizens access to TANF even after the five-year waiting period has elapsed. While means-tested benefit costs at both the Federal and State levels could increase because of potential earlier access to qualified noncitizen status for the purpose of benefits eligibility than would otherwise be the case absent this parole in place process, for most States, any increase in benefit-based spending for these parolees will be delayed by the five-year waiting period. Upon receipt of employment authorization and gainful employment, spouses and stepchildren of U.S. citizens may no

[177] *See* Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, title IV, 110 Stat. 2105, 2260–77 (Aug 22, 1996).

[178] 8 U.S.C. 1613.

[179] OHSS Analysis, *supra* note 3, tbl. 5.

[180] *See* Refugee Education Assistance Act of 1980, Public Law 96–422, sec. 501 (8 U.S.C. 1522 note); 8 CFR 212.5(h); *see also* U.S. Dep't of Health and Human Services, Office of Refugee Resettlement, Benefits for Cuban/Haitian Entrants (Fact Sheet), available at *https://www.acf.hhs.gov/orr/fact-sheet/benefits-cuban/haitian-entrants.*

longer need or qualify for public benefits. Additionally, noncitizens' eventual potential ability to access benefits after being granted parole through this process may well be offset by increased tax revenue and other economic benefits created by their ability to obtain lawful employment.

The extent to which this process will impact States in the short term because of noncitizens granted parole gaining access to driver's licenses will depend on State policy. Although 19 States, the District of Columbia, and Puerto Rico already provide noncitizens access to driver's licenses regardless of immigration status, other States make access to driver's licenses contingent on lawful immigration status. However, the REAL ID Act of 2005 [181] and its implementing regulations exclude parolees from the list of categories of individuals eligible for REAL ID-compliant licenses. Therefore, whether noncitizens who are granted parole under this process can receive driver's licenses will depend upon States' willingness to continue to issue non-REAL ID compliant licenses to this population, either because they issue driver's licenses to noncitizens regardless of their immigration status or because they contemplate issuing licenses to noncitizens in immigration statuses beyond those included in the REAL ID Act. DHS acknowledges that the provision of parole in place may enable noncitizens to pursue adjustment of status sooner than they otherwise would, and in States where a noncitizen would not have access to a driver's license before becoming an LPR, this process would render them eligible to apply for a driver's license sooner. However, many States may also charge fees for driver's licenses, and therefore the cost to States caused by additional noncitizens becoming eligible for driver's licenses following a grant of parole in place under this process may be mitigated.

DHS also considered the impact of this process on State education costs. DHS recognizes that undocumented noncitizen students receive K–12 education that is publicly funded. Although the provision of parole to some of these undocumented noncitizen students may result in some indirect fiscal effects on State and local governments, the direction of the effect is dependent on multiple factors. Given the criteria requiring stepchildren of U.S. citizens to be continuously physically present in the United States since at least June 17, 2024, these noncitizens would already be present in the United States and likely attending public school even in the absence of this process.

While some States may allow noncitizens with parole to qualify for in-state tuition rates at public universities, which may not be available to similarly situated noncitizens without parole, the costs to the States will depend on choices they make and will be location-specific. The fiscal impact is therefore difficult to quantify, let alone predict. However, any cost associated with additional access to in-state tuition rates at public universities may be offset by the further pursuit of education and the resultant economic benefits. The provision of parole and employment authorization may motivate recipients to continue their education, pursue post-secondary and advanced degrees, and seek additional vocational training, which ultimately provides greater opportunities, financial stability, and disposable income for themselves and their families.[182] This in turn benefits their communities at large and increases the potential economic benefit to State and local governments.

As described throughout this notice, this process will provide multiple significant benefits to the U.S. public. DHS has identified and considered the interests of the parties affected by establishment of this process and has, to the extent possible, determined that the significant public benefits of the case-by-case parole of noncitizens under this process to the United States outweigh the anticipated costs to Federal and State governments alike. Additionally, given that the population eligible to request parole in place under this process is limited to those who have been continuously physically present in the United States since June 17, 2014, or in the case of stepchildren of U.S. citizens, since at least June 17, 2024, DHS does not believe this process will meaningfully affect or create incentives for noncitizens to enter the United States.

VIII. Regulatory Requirements

A. Analysis of Benefits, Costs, and Governmental Transfers

Estimated Population

According to DHS analysis from the Office of Homeland Security Statistics, this process could benefit an estimated 500,000 unauthorized noncitizen spouses of U.S. citizens as well as an estimated 50,000 unauthorized noncitizen stepchildren of U.S. citizens. The estimated 500,000 unauthorized noncitizen spouses is the average of the estimated interval of 300,000 to 700,000 potential noncitizen spouses of U.S. citizens. To provide a more informed analysis when estimating costs, benefits, and transfers of this process, DHS assumes two scenarios: one designates ''*scenario 350K*'' as a low population estimate scenario that includes 300,000 spouses and 50,000 stepchildren, and the other designates ''*scenario 750K*'' as a high population estimate that includes 700,000 spouses and 50,000 stepchildren.[183] For the final estimated numbers DHS takes the point estimate, that is the average between the low estimate and high estimate scenarios.

Using data on the estimated unauthorized immigrant population living in the United States,[184] DHS first estimates the broader unauthorized population present in the United States for at least 10 years. DHS then separates the unauthorized populations into two categories, making assumptions on the population that is PWAP (previously known as entered without inspection or EWI) and the population that overstayed their period of admission. The PWAP population is the population of interest under this process. Once the PWAP population in the United States is estimated, DHS filters this population by the proportion of the unauthorized population married to a U.S. citizen,[185] which yields the estimated 500,000 unauthorized noncitizen spouses present in the United States for at least 10 years. To arrive at the estimated number of 50,000 stepchildren, DHS uses fertility data to assume a rate of children per marriage as well as assumptions on the average household composition of U.S. citizen children and unauthorized stepchildren.[186]

[181] *See* Public Law 109–13, div. B, secs. 201–207 (codified at 49 U.S.C. 30301 note); *see also* 6 CFR pt. 37.

[182] *See, e.g.,* Zachary Liscow and William Woolson, *Does Legal Status Matter for Educational Choices? Evidence from Immigrant Teenagers,* American Law and Economics Review (Dec. 11, 2017), available at *https://dx.doi.org/10.2139/ssrn.3083026.*

[183] DHS cannot accurately predict the behavior of the affected population and hence cannot accurately forecast how many individuals would choose to pursue this policy. The two population scenarios can therefore better inform stakeholders of possible impacts, showing estimated impacts if less (more) individuals than the point estimate of 550,000 choose to pursue this policy.

[184] Bryan Baker and Robert Warren, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2018–January 2022,* available at *https://ohss.dhs.gov/topics/immigration/unauthorized-immigrants/estimates-unauthorized-immigrants* (last visited June 17, 2024).

[185] This rate is on average 12%. Source: Migration Policy Institute, *Profile of the Unauthorized Population: United States,* available at *https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US* (last visited June 17, 2024).

Wages

DHS estimates that this process would result in increased earnings for the population that gains work authorization by removing the ''wage penalty'' that affects undocumented individuals in the United States. Determining the magnitude of this increase in earnings requires identifying the percentage of the population that applies for parole that is in the labor force, the size of the wage penalty, and the wages of this population in the baseline.

First, DHS assumes the labor participation rate of this population is similar to that of foreign-born workers. Therefore, DHS estimates that approximately 67 percent of this population are currently in the informal labor force,[187] or 234,500 individuals for scenario 350K, and 502,500 individuals for scenario 750K. DHS assumes these estimates remain constant with this process, *i.e.,* the same percentage in this population would transition to or chose to participate in the formal labor market once authorized under this process.

DHS recognizes that providing employment authorization could induce additional entry into the labor force. For example, Pope (2016) found DACA increased the likelihood of a sample of noncitizens in DACA-eligible age groups working by 3.7–4.8 percentage points and their number of hours worked per week by 0.9–1.7 hours, stemming from an increase in labor force participation and a decrease in unemployment.[188] Pope also notes that because the non-citizen sample analyzed was comprised of nearly 40% *authorized* immigrants, the true effect would be approximately 1.6 times larger (5.9–7.7 percentage points). Additional research from Pan (2012) [189]—studying the effects of the Immigration Reform and Control Act of 1986—and Orrenius and Zavodny (2015) [190]—studying the effects of Temporary Protected Status—provides more granular detail that, following receipt of lawful status, wage increases (discussed below) may be clustered among men and higher employment rates may be clustered among women. However, DHS assumes no increase in employment resulting from this process. As a result, the assumption of a static employment rate could result in an underestimate of the total impact.

Second, there is an extensive literature showing that documented immigrants tend to earn higher wages than those who are undocumented. This difference is known as the wage penalty,[191] which Borjas and Cassidy (2019) define as the wage difference between observationally-equivalent documented and undocumented immigrants.[192] In order to quantify the marginal impact of providing employment authorization on earnings for undocumented spouses, DHS consulted several studies. Table 1 shows the studies and the various wage penalty percentages from their findings.

TABLE 1—STUDIES ON UNDOCUMENTED WORKER WAGE PENALTIES

Wage penalty	Author	Title and descriptor
4% to 6%	Borjas & Cassidy (2019).	*The wage penalty to undocumented immigration.* Wage earned as a documented noncitizen could be, on average, 4 to 6 percent higher than the wage of an individual working as an undocumented noncitizen.
5%	Ortega & Hsin (2022)	*Occupational barriers and the productivity penalty from lack of legal status.* The wage gap between documented and undocumented workers in the period 2010–2012 is 12 percent in occupations with entry barriers (30.1% of undocumented workers) and 2 percent in occupations without entry barriers (69.9% of undocumented workers) when accounting for observable characteristics (similar education and skills) other than occupation.
8%	Albert (2021)	*The Labor Market Impact of Immigration: Job Creation versus Job Competition.* Using data from 1994–2016, the wage gap—conditional on observable characteristics—between undocumented and document immigrants is 8 percent.
14% to 24%	Kossoudji & Cobb-Clark (1998).	*Coming Out of the Shadows: Learning about Legal Status and Wages From the Legalized Population.* The Immigration Reform and Control Act of 1986 (IRCA) authorized the granting of lawful status to approximately 1.7 million long-term unauthorized workers in an effort to bring them ''out of the shadows'' and improve their labor market opportunities. An analysis of wages using panel data for a sample of men granted lawful status provides evidence that wage determinants are structurally different after legal status was available for them but not for the comparison group as measured during the same time periods. The wage penalty for being unauthorized is estimated to range from 14% to 24%.

Borjas and Cassidy (2019) examine the wage differential between informal and formal work for immigrant populations finding that the wage earned as a documented noncitizen could be, on average, 4 to 6 percent higher than the wage of an individual working as an undocumented noncitizen.[193]

Ortega and Hsin (2022) find that the wage penalty between documented and undocumented workers in the period 2010–2012 is 12 percent in occupations with entry barriers (30.1% of undocumented workers) and 2 percent in occupations without entry barriers (69.9% of undocumented workers) when accounting for observable

[187] In 2023, the labor force participation rate of the foreign born increased to approximately 67 percent (rounded value). *See* BLS Foreign-Born Workers: Labor Force Characteristics—2023 (May 21, 2024) *https://www.bls.gov/news.release/archives/forbrn_05212024.pdf.*

Calculation: 350,000 * 67 percent = 234.500, and 750,000 * 67 percent = 502,500.

[188] Nolan G. Pope, The Effects of DACAmentation: The Impact of Deferred Action for Childhood Arrivals on Unauthorized Immigrants, Journal of Public Economics, vol. 143, 2016: 98–114.

[189] Pan, Y. The Impact of Legal Status on Immigrants' Earnings and Human Capital: Evidence from the IRCA 1986. J. Labor Res. 33, 119–142 (2012).

[190] Orrenius, Pia M., and Madeline Zavodny. 2015. ''The Impact of Temporary Protected Status on Immigrants' Labor Market Outcomes.'' *American Economic Review,* 105(5): 576–80.

[191] Despite being labeled as a ''wage penalty,'' such estimates are generally reported as a percentage of earnings before work authorization, rather than after.

[192] *See* George J. Borjas and Hugh Cassidy, *The wage penalty to undocumented immigration,* Lab. Econ. 61, art. 101757 (2019) (hereinafter Borjas and Cassidy (2019)), *https://scholar.harvard.edu/files/gborjas/files/labourecon2020.pdf.*

[193] *Id.*

characteristics (similar education and skills) other than occupation.[194] In aggregate, the wage penalty is 5%.

Albert (2021) uses data from 1994–2016 to estimate that the wage gap—conditional on observable characteristics—between undocumented and document immigrants is 8 percent.[195]

Kossoudji & Cobb-Clark (1998) used the change in policy caused by the Immigration Reform and Control Act of 1986 (IRCA)—which authorized the granting of lawful status to approximately 1.7 million long-term unauthorized workers—to analyze the question of whether and how legal status influences wages.[196] The policy effectively brought unauthorized immigrants out of the informal labor market and improved their labor market opportunities. Their analysis of wages used panel data for a sample of Mexican and Central American legalized men which provided evidence that wage determinants are structurally different after legal status was extended to this group. The analysis suggests that upon arrival in the U.S. labor market, unauthorized men's wages would have been 14 percent higher if they had been authorized workers; if they had been authorized for all their U.S. working lives, wages in 1992 would be 24 percent higher than actual wages.[197]

Third, estimating baseline wages cannot be done through use of traditional sources for wages, such as the Department of Labor Bureau of Labor Statistics' (BLS) data, as they do not provide wage estimates for undocumented workers. Consequently, DHS considered several studies to get a range of estimates for earnings of undocumented workers.

A 2022 report by the Center for Migration Studies states that ''mean and median annual wages of Hispanic undocumented immigrants who are employed (ages 16 and above) are $28,252 and $25,000, respectively.'' [198] Given that two-thirds of the estimated undocumented immigrant population is Hispanic,[199] DHS considers the mean wage of $28,252, which we adjust up using the Employment Cost Index (wages and salaries for private industry workers) to $33,302 (2023 dollars), a reasonable lower estimate for this population's earnings.[200]

In other regulations, USCIS has used the 10th percentile wage as a proxy for low-paying or entry-level jobs weighted to include benefits for full compensation.[201] The 10th percentile wage is not specific to undocumented workers; however, it is an example of a lower wage that we have used in other rules. DHS presents wage data from BLS National Occupational Employment and Wage Estimates for an unweighted, 10th percentile wage estimate for all occupations to provide another point of comparison.[202] DHS takes the hourly wage of $13.97 and adjusts it by 1.45 to account for worker benefits to get the average total rate of compensation as $20.26 per hour.[203] This wage estimate adjusted by 1.45 is appropriate, even if workers are in the informal labor market and do not receive similar benefits. It is appropriate in this analysis because the 10th percentile of full compensation is being estimated based on the 10th percentile wage estimate in order to serve as a plausible benchmark for this population's average earnings.

Assuming approximately 1,784 hours worked per year (34.3 average weekly hours worked as of 2023, multiplied by 52 weeks in a year),[204] someone earning compensation of $20.26 per hour would earn approximately $36,136 annually. DHS does not rule out the possibility that this population might earn higher wages than shown in this analysis on average, but we believe that these earnings represent a reasonable estimate of the range of incomes that undocumented spouses may be able to earn.

In Table 2, we apply the various wage penalty estimates from Table 1 to the wage estimates for unauthorized workers discussed above to estimate a range of increase in potential income—from 4 percent to 24 percent—as a result of obtaining parole. We also include a simple arithmetic mean of the central estimate of the three articles used to generate these estimates, 9%, to illustrate a potential central estimate of the wage penalty.[205] The result is a range of estimates for the increased marginal earnings due to work authorization. DHS estimates that receiving employment authorization can increase an immigrant's earnings by about $1,332 to $8,672 per year.

[194] Francesc Ortega and Amy Hsin, *Occupational barriers and the productivity penalty from lack of legal status, https://docs.iza.org/dp11680.pdf* Labour Economics 76 (2022): 102181, *https://www.sciencedirect.com/science/article/abs/pii/S0927537122000720.*

[195] Albert, Cristoph *The Labor Market Impact of Immigration: Job Creation versus Job Competition,* American Economic Journal: Macroeconomics 13(1) 2021, *https://pubs.aeaweb.org/doi/pdfplus/10.1257/mac.20190042.*

[196] Kossoudji & Cobb-Clark *Coming Out of the Shadows: Learning About Legal Status and Wages from the Legalized Population,* Lab. Econ. 20(3) 2002, *https://www.journals.uchicago.edu/doi/epdf/10.1086/339611.*

[197] *Id.*

[198] Evin Millet and Jacquelyn Pavilon, *Demographic Profile of Undocumented Hispanic Immigrants in the United States* (Oct. 14, 2022), at *https://cmsny.org/publications/hispanic-undocumented-immigrants-millet-pavilon-101722/.* This report also provides that, in comparison, the mean and median wages for Hispanic documented immigrants are $40,032 and $30,000, respectively. Accordingly, the 2022 Center for Migration Studies (CMS) data indicate a wage gap of 40 percent for mean earnings and 20 percent for median earnings. However, DHS excludes the 20 percent to 40 percent wage gap identified in the report from this analysis because the CMS report compares only the average wages between documented and undocumented workers. The CMS report did not state it made any adjustments for other factors that may affect the differences in wages between the two populations, such as age, education, or skills. Without these adjustments, the wage gap between the two populations may not necessarily equate to the wage penalty for being undocumented.

Note: This study uses 2019 Census ACS data. Earnings to be adjusted to 2023 dollars.

[199] Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2018–January 2022, DHS, Office of Homeland Security Statistics (May 6, 2024), at *https://www.dhs.gov/sites/default/files/2024-05/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%E2%80%93january-2022.pdf,* Table 2 Unauthorized Immigrant Population Estimates by Top 10 Countries of Birth: 2018–2020 and 2022.

[200] Source: *https://fred.stlouisfed.org/series/ECIWAG.* Calculation: Earnings CY 2019 *(Average CY 2023 ECIWAG/Average CY 2019 ECIWAG) = $28,252 * 1.17874 = $33,302 (rounded).

[201] *See Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants,* 89 FR 24628 (Apr. 8, 2024) (final rule), *https://www.govinfo.gov/content/pkg/FR-2024-04-08/pdf/2024-07345.pdf; Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for ''T'' Nonimmigrant Status,* 89 FR 34864 (Apr. 30, 2024) (final rule), *https://www.govinfo.gov/content/pkg/FR-2024-04-30/pdf/2024-09022.pdf.*

[202] See Occupational Employment Statistics program, All Occupations, available at *https://www.bls.gov/oes/2023/may/oes_nat.htm#00-0000.* 10th percentile hourly wages used here are available in the ''national_M2023_dl'' excel file at *https://www.bls.gov/oes/special.requests/oesm23nat.zip* (last visited July 11, 2024).

[203] The benefits-to-wage multiplier is calculated as follows: (total employee compensation per hour)/(wages and salaries per hour) = $42.48/$29.32 = 1.45 (rounded). *See* Bureau of Labor Stat., U.S. Dep't of Labor, ''Employer Costs for Employee Compensation—December 2023,'' *https://www.bls.gov/news.release/archives/ecec_03172023.pdf* (last visited July 11, 2024).

[204] Bureau of Labor Stat., U.S. Dep't of Labor, *https://www.bls.gov/news.release/archives/empsit_01052024.htm* (last visited July 10, 2024).

[205] Calculation: ((4% + 6%)/2 + 5% + 8% + (14% + 24%)/2)/4 = 9% (rounding).

TABLE 2—ESTIMATED INCREASED MARGINAL EARNINGS PER WORKER AND PER YEAR

[2023 Dollars]

Wage penalty (%)	Scenarios for earnings without work authorization	
	$33,302 [1]	$36,135 [2]
4	$1,332	$1,445
5	1,665	1,807
6	1,998	2,168
8	2,664	2,891
9	2,997	3,252
14	4,662	5,059
24	7,992	8,672

Notes:
Estimated marginal earning per worker calculated for each scenario by multiplying the wage penalty by the earnings without work authorization, for example: $33,302 × 4% = $1,332.
[1] CMS: *https://cmsny.org/publications/hispanic-undocumented-immigrants-millet-pavilon-101722.*
Adjusted 2019 estimate using Employment Cost Index to 2023 dollars.
[2] 10% Percentile: *https://www.bls.gov/oes/current/oes_research_estimates.htm.*
Adjusted to include benefits as reported by BLS, *https://www.bls.gov/news.release/archives/ecec_03132024.htm.*

DHS assumes that the estimated 234,500 in scenario 350K and 502,500 individuals in scenario 750K are currently in the informal labor force and would receive parole as well as employment authorization—increasing their earnings—as a result of this process. Consistent with standard practice in regulatory impact analyses, as well as current evidence in the labor market,[206] DHS assumes full employment (that is, that all workers looking for work can find employment in the labor market); accordingly, there is no need to consider the extent to which the labor of affected individuals substitutes for the labor of workers already employed in the economy. For further discussion of the literature on labor substitution and immigration, see ''Labor Market Impacts'' below.

The increased gross annual earnings from the process are estimated by multiplying the marginal increased earnings per worker due to employment authorization (Table 2) by the estimated labor force participation population numbers under scenario 350K (234,500) and 750K (502,500), respectively. Table 3 presents these estimates.

TABLE 3—TOTAL GROSS ANNUAL MARGINAL EARNINGS GAINED

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350k	Scenario 750k	Scenario 350k	Scenario 750k
4	$312,372,760	$669,370,200	$338,946,300	$726,313,500
5	390,465,950	836,712,750	423,682,875	907,891,875
6	468,559,140	1,004,055,300	508,419,450	1,089,470,250
8	624,745,520	1,338,740,400	677,892,600	1,452,627,000
9	702,838,710	1,506,082,950	762,629,175	1,634,205,375
14	1,093,304,660	2,342,795,700	1,186,312,050	2,542,097,250
24	1,874,236,560	4,016,221,200	2,033,677,800	4,357,881,000

Note: Total annual earnings is calculated by taking the benefits estimated from work authorization in Table 2 for each scenario and multiplying it by the population participating in the labor market. For example: under the 350k scenario where the relevant population are earning, on average, $33,302/year and the wage penalty is 4%, then the benefit of work authorization is $1,332/year; when multiplied by the working population of 234,500, the total annual increase of gaining work authorization for this population is $312 million/year.

[206] The prime-age (25–54) employment-to-population ratio has been over 80% since November 2022. *https://fred.stlouisfed.org/series/LNS12300060* (last accessed July 10, 2024). Methods that isolate the effect of population aging (capturing, for example, aging within the 25–54 cohort) indicate that the adjusted employment-to-population ratio is at historical highs. *https://www.whitehouse.gov/cea/written-materials/2023/07/27/labor-market-indicators-are-historically-strong-after-adjusting-for-population-aging/*. Other measures of full employment provide evidence that there is not substantial slack in the labor market; for example, in the July 2024 Summary of Economic Projections of the Board of Governors of the Federal Reserve System, the unemployment rate is projected to remain below the longer-run stable value in 2024. *https://www.federalreserve.gov/monetarypolicy/2024-07-mpr-part3.htm.*

Using the 9% wage penalty as the preferred measure of central tendency, it implies increased earnings of $0.70 billion to $1.63 billion in additional earnings per year. To produce a point estimate, DHS takes the average across the two scenarios (using the 9% wage penalty) to arrive at $1.15 billion (rounded), as its preferred estimate of the gross annual increased earnings resulting from this process.

Benefits

As noted above, DHS estimates an additional $1.15 billion in annual earnings stemming from this process.[207] As noted in Ortega & Hsin (2022), these short-term increased earnings are explained by group-specific occupational barriers associated with a lack of legal status that cause a misallocation of talent and human capital. The study found that providing legal status to these workers increases the productivity of these workers, and therefore represent net economic gains.

To the extent that the long-term increase in productivity is not fully captured by the increase in earnings—for example, due to employer labor market power—this earnings estimate understates the true economic gains.[208] And as previously noted, to the extent that this process leads to additional labor force participation—as per Pope (2016), Pan (2012), and Orrenius and Zavodny (2015)—the earnings estimate may also understate the benefit of this process. The total increase in earnings will also be understated if individuals, after gaining lawful status, switch from industries where they currently face lower wage penalties to industries where they would currently face higher wage penalties. In the Ortega and Hsin (2022) estimation of the effects of grants of lawful status on GDP, the direct wage effect is less than a fifth of the total increase in earnings, meaning the true effect of lawful status on earnings may be five times higher than the wage penalty estimate. In addition, Ortega & Hsin note that the long-term productivity gain may be higher because the affected population anticipates labor market barriers in occupations with high skill requirements, leading to under-investment in human capital. To the extent the process leads to closer-to-optimal investment in human capital (in a manner not reflected in the literature used to estimate the wage penalty), the long-term benefits of this process could be higher.

Beyond earnings, the process's immediate benefits include a sense of security and belonging for the affected population, their families, and communities due to the program offering a less burdensome path to adjustment of status. The population that could be eligible for parole in place through this process subsequently could apply for adjustment of status to that of an LPR and, if granted, would gain the freedom and ability to travel internationally.

Noncitizens in the population granted parole in place under this process would benefit from being able to earn lawful wages through participation in the labor market (less the value of their leisure time prior to this process) including expanded employment options not previously available to them. Noncitizens who work would contribute to Federal, State, and local taxes and would benefit from the Social Security system in retirement. Additionally, and generally, some noncitizens could benefit from eventually having access to public assistance programs only available to qualified noncitizens and U.S. citizens if a need for such assistance arises and if they are not already a beneficiary of assistance through their U.S. citizen spouse or parent.[209]

Research provides a variety of more specific evidence on the benefits of gaining lawful status for populations that have resided in the United States for periods of time without lawful status. For example, Patler and Pirtle (2018) find that reports of current psychological wellness increase for DACA recipients.[210] Hasager (2024) finds that in conditions where women's resident status is contingent on remaining married to their husbands, grants of legal status (in this case, asylum) to such women decreases their risk of being victims of violence.[211]

Research also indicates that benefits can spillover to additional individuals. For example, Cascio, Cornell, and Lewis (2024) found that the Immigration Reform and Control Act of 1986 led to higher birthweights among mothers who gained legal status.[212] This effect arose immediately after applications opened—long before the affected women would have been able to become eligible for Medicaid—indicating that the causality stemmed from factors other than improved access to prenatal care, such as higher family income and reductions in stress that come from gaining legal status. As Cascio, Cornell, and Lewis (2024) note, birthweight is a predictor of later school achievement[213] as well as adult educational attainment rates, IQ, health, and labor market outcomes.[214]

Costs

The costs to the population affected by this process will include the various application costs (one person, parent or stepchild, per application). These costs include opportunity costs of time (OCT) of requestors and, if applicable, their representatives for filing Forms I–131F, I–765, I–130, and I–485 (OCT = [value of time based on relevant wages] * [estimated time burden to complete and submit required forms]). Requestors would also be responsible for any travel costs associated with a required biometrics collection appointment at a USCIS ASC.

The process to request parole in place requires an individual to file Form I–131F. Currently, Form I–131F has an estimated time burden of 1.1667 hours with a filing fee of $580.[215] To request employment authorization, an individual is required to file Form I–765, with a time burden of 4.317 hours,[216] and a fee of $470 if filing

[207] Not all of these earnings are retained by workers; some are taxed, both through payroll taxes and other taxes, as previously discussed.

[208] *See, e.g.,* David Card, Who Set *Your* Wage?, American Economic Review, vol. 112, no. 4, April 2022: 1075–90.

[209] For example, without this policy and all else equal, stepchildren that become adults and become independent of parents would not have access to public assistance program only available to authorized noncitizens or naturalized citizens. The same could apply in the cases of divorce.

[210] Caitlin Patler and Whitney Laster Pirtle, From Undocumented to Lawfully Present: Do Changes to Legal Status Impact Psychological Wellbeing Among Latino Immigrant Youth Adults?, Social Science & Medicine, vol. 199 (2018): 39–48.

[211] Linea Hasager, Does Granting Refugee Status to Family-Reunified Women Improve Their Integration?, Journal of Public Economics, vol. 234 (2024): 105119.

[212] Elizabeth U. Cascio, Paul Cornell and Ethan G. Lewis, The Intergenerational Effects of Permanent Legal Status, NBER Working Paper No. 32635 (June 2004), *https://www.nber.org/papers/w32635.*

[213] Figlio, David, Jonathan Guryan, Krzysztof Karbownik, and Jeffrey Roth. 2014. ''The Effects of Poor Neonatal Health on Children's Cognitive Development.'' American Economic Review 104(12): 3921–3955.

[214] Behrman, Jere R. and Mark R. Rosenzweig. 2004. ''Returns to Birth Weight.'' Review of Economics and Statistics. 86(2): 586–601; Black, Sandra E., Paul J. Devereux, and Kjell G. Salvanes. 2007. ''From the Cradle to the Labor Market? The Effect of Birth Weight on Adult Outcomes.'' Quarterly Journal of Economics 122(1): 409–439; Philip Oreopoulos, Mark Stabile, Randy Walld, and Leslie L. Roos, Short-, Medium-, and Long-Term Consequences of Poor Infant Health: An Analysis Using Siblings and Twins, Journal of Human Resources, January 2008, 43 (1) 88–138; Royer, Heather. 2009. ''Separated at Girth: U.S. Twin Estimates of the Effects of Birth Weight.'' American Economic Journal: Applied Economics 1(1): 49–85.

[215] Estimated burden hours, subject to revision based on public comments.

[216] *See* USCIS, Form I–765, Instructions for Application for Employment Authorization, OMB Control Number 1615–0040 (expires Feb. 28, 2027),

Continued

online.[217] Parolees who later choose to apply for adjustment of status must file Form I–485, with a time burden of 6.987 hours [218] and submit a fee of $1,440.[219] In addition to the Form I–485, U.S. citizen spouses or parents must file Form I–130, with a time burden of 1.817 hours [220] and a fee of $625 if filed online.[221] DHS assumes that if given the option, requestors will submit the required forms online. For all forms together, the total time burden is 14.2877 hours.

DHS calculates the costs of applying under this process as follows. Under the two earnings scenarios previously discussed, we convert the annual earnings of $33,302 and $36,135 to per hour earnings, arriving at an estimated $18.67 and $20.26 per hour, respectively. (DHS herein refers to the estimated $18.67 hourly wage as ''earnings scenario 1'' and the estimated $20.26 hourly wage as ''earnings scenario 2.'') We do not include any wage penalty adjustments for application costs purposes as the population is not authorized at the time of application, so their OCT is their estimated informal labor earnings. For applications that are prepared by a representative, DHS estimates an hourly total compensation rate of $123.02 (rounded) using the national average hourly wage for attorneys, adjusted to include benefits, as a reasonable proxy of the opportunity cost of time.[222] Using the behavior of I–601A filers as a best-approximation for the data, DHS estimates that 81 percent of applicants could seek assistance from a lawyer or an accredited representative and 19 percent would not.[223]

Biometrics collection occurs at a designated USCIS ASC. While travel times and distances vary, DHS estimates that the average roundtrip distance to an ASC is 50 miles [224] and travel takes about 2.5 hours on average to complete a roundtrip.[225] Furthermore, DHS estimates that a requestor spends an average of 1 hour and 10 minutes (1.17 hours) at an ASC to submit biometrics,[226] adding up to a total biometrics collection-related time burden of 3.7 hours per requestor. The per requestor biometrics travel costs are approximately $99.77 under earnings scenario 1, and $105.60 under earnings scenario 2.[227]

The costs are calculated under the two earnings scenarios and the two population scenarios, scenario 350K and scenario 750K. For scenario 350K, we estimate that approximately 66,500 individuals would not use a representative to file the required forms and 283,500 would use a representative. For scenario 750K, we estimate 142,500 individuals would not use a representative and 607,500 would use a representative. Table 4 presents the total cost estimates, including total time burden for filing required forms, per hour OCT estimates for requestors and representatives, population estimates, and biometrics travel costs estimates. To arrive at a point estimate, DHS takes the average across each population scenario and each earning scenario. As a result, the point estimate is approximately $868,583,362 ($0.87 billion).

TABLE 4—TOTAL PROGRAM APPLICATION COSTS

[2023 Dollars]

Costs	Earnings $33,302 ($18.67/hour)		Earnings $36,135 ($20.26/hour)	
	Scenario 350k	Scenario 750k	Scenario 350k	Scenario 750k
Forms	$516,039,219	$1,105,798,327	$517,549,929	$1,109,035,563
Biometrics	34,919,115	74,826,675	36,961,470	79,203,150
Total	550,958,334	1,180,625,002	554,511,399	1,188,238,713

Note: For example, forms costs under scenario 350k and $18.67/hour OCT, are calculated as the time burden for all forms, 14.2877 hours, multiplied by the applicant population of 66,500 and their OCT, plus the total forms time burden, 14.2877 hours, multiplied by the population using a representative, 283,500, and their respective OCT. This is (14.2877 * 66,500 * $18.67) + (14.2877 * 283,500 * $123.02) = $17,738,965 + $498,300,254 = $516,039,219 (rounded). Biometrics costs are approximately $99.77 * 350,000 = $34,919,115. Numbers are slightly off due to rounding.

Transfer Payments

All the fees paid for the required forms for this process represent a transfer to the federal government (see Table 5). As previously noted, an individual must file Form I–131F to request parole in place and pay a (online) filing fee of $580; file Form I–765 to request work authorization and pay a (online) filing fee of $470 and file Form I–485 to apply for adjustment of status and pay a (mail-in) fee of $1,440. Concurrently with Form I–485, U.S. citizen spouses or parents must file Form I–130, with (online) fee of $625.

https://www.uscis.gov/sites/default/files/document/forms/i-765instr.pdf (last visited July 11, 2024).

[217] *See* USCIS, Form G–1055, Fee Schedule, Effective April 1, 2024, p. 33 of 39, *https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf* (last visited July 11, 2024).

[218] *See* USCIS, Form I–485, Instructions for Application to Register Permanent Residence or Adjust Status, OMB Control Number 1615–0023 (expires Feb. 28, 2026), *https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf* (last visited July 11, 2024).

[219] *See* USCIS, Form G–1055, Fee Schedule, Effective April 1, 2024, p. 14 of 39, *https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf* (last visited July 11, 2024).

[220] *See* USCIS, Form I–130, Instructions for Form I–130, Petition for Alien Relative, and Form I–130A, Supplemental Information for Spouse Beneficiary, OMB Control Number 1615–0012 (expires Feb. 28, 2027), *https://www.uscis.gov/sites/default/files/document/forms/i-130instr.pdf* (last visited July 11, 2024).

[221] *See* USCIS, Form G–1055, Fee Schedule, Effective April 1, 2024, p. 7 of 39, *https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf* (last visited July 11, 2024).

[222] DHS assumes the preparers with similar knowledge and skills necessary for filing an application have average wage rates equal to the average lawyer wage of $84.84 per hour. DHS adjusts by the benefits-to-wage multiplier for a total compensation rate of 84.84 * 1.45 = $123.02 (rounded). *See* Bureau of Labor Stat., DOL, Occupational Employment and Wage Statistics, ''Occupational Employment and Wages, May 2023, 23–1011 Lawyers,'' *https://www.bls.gov/oes/2023/may/oes231011.htm.*

[223] Source: OP&S, PRD, C3. Queried July 17, 2024.

[224] A mileage rate for travel-related automobile costs is assumed. A rate of $0.625 per mile is adopted from the U.S. General Services Administration website at *https://www.gsa.gov/travel/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-mileage-rates/pov-mileage-rates-archived* for privately owned vehicle mileage reimbursement rates. Rate effective July 1, 2022.

[225] *See Employment Authorization for Certain H–4 Dependent Spouses,* 80 FR 10284 (Feb. 25, 2015); *Provisional and Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives,* 78 FR 536, 572 (Jan. 3, 2013).

[226] Source: USCIS, DHS, Instructions for Application to Register Permanent Residence or Adjust Status (Form I–485), OMB No. 1615–0023 (expires Feb. 28, 2026), *https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf.*

[227] Calculations: (((50 * $0.625) + ((2.5+1.17) * $18.67))) = $99.77 (rounded).

If the option exists to submit a form online, DHS assumes that requestors would take advantage of this option to save costs and hence we use the online form submission fees to calculate the fee transfers. Any fee waivers granted for filing forms would reduce transfers from the affected population to USCIS.[228]

TABLE 5—FORM FEE TRANSFERS TO THE FEDERAL GOVERNMENT

[2023 Dollars]

Forms	Fee	Scenario 350K	Scenario 750K
I–131F	$580	$203,000,000	$435,000,000
I–765	470	164,500,000	352,500,000
I–130	625	218,750,000	468,750,000
I–485	1,440	504,000,000	1,080,000,000
Total	3,115	1,090,250,000	2,336,250,000

Note: The point estimate is the average of the two scenarios, $1,713,250,000.

Tax Revenue Transfer Payments

Increased earnings would result in increased tax revenue to different levels of government. For Federal income taxes, DHS presents an estimate using the simplified assumption that all individuals have marginal earnings taxed at a 12% rate. This is the tax rate that DHS believes would be applicable to such earnings for most individuals.[229] The gross earnings estimates are multiplied by 12% to yield the results in Table 6.

TABLE 6—TOTAL FEDERAL INCOME TAX TRANSFERS AT 12% RATE

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350K	Scenario 750K	Scenario 350K	Scenario 750K
4	$37,484,731	$80,324,424	$40,673,556	$87,157,620
5	46,855,914	100,405,530	50,841,945	108,947,025
6	56,227,097	120,486,636	61,010,334	130,736,430
8	74,969,462	160,648,848	81,347,112	174,315,240
9	84,340,645	180,729,954	91,515,501	196,104,645
14	131,196,559	281,135,484	142,357,446	305,051,670
24	224,908,387	481,946,544	244,041,336	522,945,720

Note: The point estimate is the average across the 9% row, which is $138,172,686.

Following the same approach to calculating the point estimate as was done previously produces an estimate of approximately $138 million in additional annual Federal income tax revenue as a result of the process.

It is difficult to quantify State tax transfers because taxation rules imposed by different levels of government vary widely.[230] For that reason, DHS is not able to monetize State income tax revenue increases that will occur as a result of this process, but DHS anticipates that at least some states will see tax revenue increases.

DHS is also able to estimate the increase in transfer payments to Federal employment tax programs, namely Medicare and Social Security, which have a combined payroll tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[231] With both the employee and employer paying their respective portion of Medicare and Social Security taxes, the total estimated increase in tax transfer payments from employees and employers to Medicare and Social Security is 15.3 percent. DHS takes this rate and multiplies it by the total marginal increase in pre-tax, gross, income earnings from Table 3 to estimate the increase in employment tax transfers resulting from work authorization. Table 7 presents these estimates.

TABLE 7—TOTAL FEDERAL PAYROLL TAX TRANSFERS AT 15.3% RATE

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350K	Scenario 750K	Scenario 350K	Scenario 750K
4	$47,793,032	$102,413,641	$51,858,784	$111,125,966
5	59,741,290	128,017,051	64,823,480	138,907,457
6	71,689,548	153,620,461	77,788,176	166,688,948

[228] DHS cannot accurately and confidently estimate how many potential waivers could be granted across all of the required forms. For the purposes of this FRN, DHS assumes that if requestors have the ability to submit a new form I–131F and pay the $580 fee, they would generally have the ability to pay the rest of the required form filing fees in this process created by this policy and would generally not qualify for any fee waivers. Nevertheless, if some fee waivers were to be granted, the total amount of transfer payments would not change, but the fee waivers would represent a transfer from the USCIS-fee paying population to the requestors.

[229] Internal Revenue Service, Federal Income Tax Rates and Brackets, *https://www.irs.gov/filing/federal-income-tax-rates-and-brackets.*

[230] *See, e.g.,* Tonya Moreno, ''Your Guide to State Income Tax Rates,'' The Balance, *https://www.thebalance.com/state-income-tax-rates-3193320* (last updated July 11, 2024).

[231] Internal Revenue Service, *Topic No. 751 Social Security and Medicare Withholding Rates, https://www.irs.gov/taxtopics/tc751* (last updated July 11, 2024).

TABLE 7—TOTAL FEDERAL PAYROLL TAX TRANSFERS AT 15.3% RATE—Continued

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350K	Scenario 750K	Scenario 350K	Scenario 750K
8	95,586,065	204,827,281	103,717,568	222,251,931
9	107,534,323	230,430,691	116,682,264	250,033,422
14	167,275,613	358,447,742	181,505,744	388,940,879
24	286,758,194	614,481,844	311,152,703	666,755,793

Note: The point estimate is the average across the 9% row, which is $176,170,175.

Following the same approach to calculating the point estimate as was done previously, this produces an estimate of approximately $176 million in additional annual Federal payroll tax revenue as a result of the process, half from employers and half from the employed population.

Additionally, DHS has considered the impact of the process on eligibility for Federal public benefits. Only noncitizens who are considered ''qualified aliens'' may access certain Federal public benefits programs. ''Qualified aliens'' include noncitizens paroled under INA section 212(d)(5) for a period of at least one year. However, nearly all benefits programs are available only to noncitizens who have been in ''qualified'' status for at least five years. For example, the Supplemental Nutrition Assistance Program (SNAP) generally requires noncitizens to have been in ''qualified'' status for five years before they can receive benefits. Similarly, Medicaid, Temporary Assistance for Needy Families (TANF), and the Children's Health Insurance Program (CHIP) generally require five years in ''qualified'' status for noncitizens who entered the United States after August 22, 1996. Given that noncitizens eligible for this process are estimated on average to have lived in the United States for 23 years, DHS anticipates that the majority of those who may be considered for parole in place will have entered after this date. Accordingly, most noncitizens who receive parole pursuant to this process will not be eligible to access public Federal benefits for at least five years. Beyond five years, DHS is not able to monetize the degree of additional outlays from Federal public benefit programs.

The potential fiscal impacts of this process on State and local governments would vary based on a range of factors, such as the social and economic characteristics of the population within a particular jurisdiction at a particular time (or over a particular period), including a parolee's age, educational attainment, income, and level of work-related skill as well as the number of dependents in their families. Fiscal effects would also vary significantly depending on local rules governing eligibility for public benefits. Under this process, additional earnings have the effect of increasing tax revenues. With regard to drawing on public assistance programs, the effects would be uncertain and depend on a range of factors, including personal circumstances and any State and local policies' eligibility criteria.

Compared to the baseline, there are multiple reasons to believe that any burden on State and local fiscal resources caused by the process are unlikely to be significant, and further that the rule may have a positive net effect on their fiscal resources. In the baseline, the vast majority of this population would remain in the country, but without the additional measure of security, employment authorization, and lawful presence promoted by this process. In addition, because State and local governments are already expending resources on public goods for the population gaining lawful status due to this process—for example, public K–12 education—the marginal effect of gaining lawful status on State and local public expenditures is likely to be small. By contrast, the increased earnings stemming from lawful status clearly increase tax revenues relative to baseline (State and local income tax revenues; higher earnings leading to higher spending, and therefore higher sales tax revenues; higher earnings leading to higher spending on property, and therefore higher property tax revenues), albeit one that DHS cannot fully monetize.

In the long term, DHS expects State and local governments to continue to choose how to finance public goods, set tax structures and rates, allocate public resources, and set eligibilities for various public benefit programs, and to adjust these approaches based on the evolving conditions of their respective populations. DHS acknowledges that though this process may result in some indirect fiscal effects on State and local governments, such effects would be extremely challenging to quantify fully and would vary based on a range of factors, including policy choices made by such governments, and may very well be offset by increases in tax revenue and economic productivity that are equally challenging to quantify.

Labor Market Impacts

The labor market impacts of increased immigration are largely not relevant to the analysis of this process because it applies to individuals who have resided in the United States for more than 10 years. Such individuals would likely continue to reside in the United States with or without this process. Nevertheless, for completeness and to the extent relevant, DHS has included discussion of the effects of increased immigration on native-born workers' employment and earnings.

Although the estimated population is small relative to the total U.S. and individual State labor forces, DHS recognizes that, in general, any potential increase in worker supply may affect wages and, in turn, the welfare of other workers and employers. However, the effects are not obvious or straightforward as changes in wages depend on many factors and various market forces, such as the type of occupation and industry, geographic market locations, employer preferences, worker preferences, worker skills, experience, and education levels, and overall economic conditions. For example, in a tight labor market, certain industries' labor demand might outpace labor supply, such as in healthcare, food services, and software development sectors. BLS projects that home health and personal care aide occupations will grow by about 34 percent over the next 10 years, cooks in restaurants by about 23 percent, and software development occupations by about 22 percent.[232] In

[232] *See* BLS, Employment Projections (Sept. 2020), *Occupations with the most job growth,* Table 1.4. Occupations with the most job growth, 2019 and projected 2029, available at *https://www.bls.gov/emp/tables/occupations-most-job-growth.htm.*

growing industries or sectors such as these, holding everything else constant, any increases in the labor supply might not be enough to temporarily satisfy labor demand. As a result, employers might offer higher wages to attract workers. The opposite could happen in a slack labor market for industries or sectors where labor supply is greater than labor demand due to these industries not growing and/or too many workers entering theses industry relative to labor demand.

DHS also notes the possibility of positive dynamic effects from employing the population relevant to this process. Hiring persons from this population might permit businesses to grow and thus have positive, rather than negative, effects on other workers, including U.S. citizens. DHS cannot predict the degree to which this population of interest is substituted for other workers in the U.S. economy since this depends on factors such as industry characteristics as described above as well as on the hiring practices and preferences of employers, which depend on many factors, such as worker skill levels, experience levels, education levels, training needs, and labor market regulations, among others.

Assuming this population of interest would remain in the United States even without this process, there is the possibility that unauthorized noncitizens looking for work without authorization may be exploited, and employers may pay substandard wages, which in turn could potentially depress wages for some native and authorized noncitizen workers. By reducing this possibility, this process may help to protect U.S. workers and employers against the possible effects of unauthorized labor.

Generally, the benefits of facilitating access to employment authorization for this population outweigh potential costs to American workers or to the U.S. economy. A 2017 National Academies of Sciences, Engineering, and Medicine (NAS) publication concludes that providing legal status to unauthorized migrants does not harm U.S.-born and other immigrant workers in the longer term, as overall the impact of immigration on wages is very small.[233]

Research has found little evidence that immigration significantly affects the overall employment rate of native-born workers. The 2017 NAS publication synthesizes the then-current peer-reviewed literature on the effects of immigration along with empirical findings from various publications.[234] With respect to wages, in particular, the 2017 NAS Report described recent research showing that, when measured over a period of more than 10 years, the impact of immigration on the wages of natives overall is very small.[235] However, the NAS Report described research finding that immigration reduces the number of hours worked by native teens (but not their employment rate). Moreover, as with wage impacts, there is some evidence that recent immigrants reduce the employment rate of prior immigrants, suggesting a higher degree of substitutability between new and prior immigrants than between new immigrants and natives.[236]

Further, the characteristics of local economies matter with respect to wage and employment effects. For instance, the impacts to local labor markets can vary based on whether such market economies are experiencing growth, stagnation, or decline. On average, immigrants tend to locate to areas with relatively high labor demand or low unemployment levels where worker competition for available jobs is low.[237] This dissipates short-term localized labor supply shock effects and increases the efficiency of labor markets.[238]

The 2017 NAS Report also discusses the economic impacts of immigration and considers effects beyond labor market impacts. Similar to citizens, immigrants also pay taxes; stimulate the economy by consuming goods, services, and entertainment; engage in the real estate market; and take part in domestic tourism. Such activities contribute to further growth of the economy and create additional jobs and opportunities for both citizen and noncitizen populations.[239]

More recent evidence provides a stronger evidentiary basis that immigration increases the employment rate of native-born workers. Empirical evidence from Peri, Rury, and Wiltshire (2024) of the effect of Puerto Ricans who were displaced to Orlando following Hurricane Maria found ''evidence that the migration event induced by Hurricane Maria caused employment growth in Orlando, in aggregate and also within sectors most likely to be affected by labor supply and demand shocks.'' [240] Peri, Rury, and Wiltshire (2024) found that this held for non-Hispanic workers and less-educated workers as well. Clemens and Hunt (2019) as well as Peri and Yasenov (2019) found evidence that previous approaches to examining the labor market effects of the Mariel Boatlift were methodologically flawed, concluding that—when properly controlled—no significant difference in labor market outcomes could be discerned.[241]

More comprehensively, Caiumi and Peri (2024) extends and improves upon a series of previous influential articles in the field that estimated how the supply of immigrant workers affected native wages in the U.S. by extending the years studies (through 2022) and using improved identification methods.[242] They find that the effect of immigration at every skill level ''on natives' employment-population ratio is positive, significant and between 0.05% and 0.095%, in response to a 1% increase in immigrant employment.'' On the wage side, Caiumi and Peri (2024) estimate that the ''average increase of native wage by 0.01% to 0.02% for each 1% growth of immigrant share can be fully due to shifts of natives into better-paying types of occupations in response to immigration.'' These estimates imply that the 2000 to 2019 immigrant flows increased the wages of native workers with a high school degree or less by 1.7% to 2.6%, had no significant wage effect on native workers with a college degree, and in aggregate increased wages for all workers by an average of 0.5% to 0.8%; regarding employment in this period, this implies that these immigrant flows increased natives' employment rate by 2.4%. Similar, but smaller, estimates are generated for the 2019–2022 period.

[233] *See, e.g.,* National Academies, *The Economic and Fiscal Consequences of Immigration* (2017), *https://www.nationalacademies.org/our-work/economic-and-fiscal-impact-of-immigration.*

[234] NAS, *The Economic and Fiscal Consequences of Immigration* (2017), at 195 *https://www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration.*

[235] *Id.* at 5.

[236] *Id.* at 5–6.

[237] *Id.* at 5.

[238] Joan Monras, Immigration and Wage Dynamics: Evidence from the Mexican Peso Crisi, Journal of Political Economy, 2020, vol. 128, no. 8: 3017–89.

[239] NAS Report at 6–7.

[240] Giovanni Peri, Derek Rury, and Justin C. Wiltshire, The Economic Impact of Migrants from Hurricane Maria, Journal of Human Resources (2022): 0521–11655R1.

[241] Clemens, M.A., & Hunt, J. (2019). The Labor Market Effects of Refugee Waves: Reconciling Conflicting Results. *ILR Review,* 72(4), 818–857; Giovanni Peri and Vasil Yasenov, The Labor Market Effects of a Refugee Wave: Synthetic Control Method Meets the Mariel Boatlift, Journal of Human Resources, vol. 54, no. 2 (2019): 267–309.

[242] Alessandro Caiumi and Giovanni Peri, Immigration's Effect on US Wages and Employment Redux, NBER Working Paper No. 32389 (Apr. 2024), *https://www.nber.org/papers/w32389.*

ACCOUNTING STATEMENT

Category	Primary estimate	Dollar year	Discount rate	Time horizon
BENEFITS:				
Annualized monetized benefits	$1.15 billion	2023	N/A	Annual.
Annualized quantified, but non-monetized benefits.	N/A	N/A	N/A	N/A.
Unquantified benefits	*To Population That Benefits from the Process:* • Increased sense of security and belonging, and psychological wellness. • Freedom and ability to travel internationally and access travel documents. • Access to a college education • Reduced risk of being subject to violence *Other:* • Higher birth weights for children of population, and consequent lifetime benefits to those children. • Preserve and more effectively use limited resources of the Federal government.	N/A	N/A	N/A.
COSTS:				
Total monetized costs	$0.87 billion	2023	N/A	Year 1.
Total quantified, but non-monetized costs.	N/A.			
Unquantified costs.				
TRANSFERS:				
Year 1 monetized Federal budgetary transfers.	$2.03 billion	2023	N/A	Year 1.
Year 2+ annualized monetized Federal budgetary transfers.	$0.31 billion	2023	N/A	Annual.
Bearers of transfer gain and loss?	From fees (Year 1) and taxes from applicants and employers to the Federal government (annual).			
NET BENEFITS:				
Year 1 monetized net benefits	$0.28 billion	2023	N/A	Year 1.
Year 2+ annualized monetized net benefits.	$1.15 billion	2023	N/A	Annualized.

B. Administrative Procedure Act

This **Federal Register** notice is exempt from notice-and-comment rulemaking requirements for the following reasons.

First, DHS is merely adopting a general statement of policy,[243] *i.e.,* a ''statement issued by an agency to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power.'' [244] As INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), provides, parole decisions are made by the Secretary of Homeland Security ''in his discretion'' and this process leaves USCIS adjudicators the discretion to approve or deny requests consistent with the guidance described in section V.C. of this Notice as they perform their case-by-case review.[245] DHS has generally exercised its parole authority without rulemaking on the substance of parole processes through the issuance of such general statements of agency policy.[246] And it is well established that ''the mere fact that an agency action,'' including a policy statement, ''may have a substantial impact does not transform it into a legislative rule.'' [247]

Second, even if this process were considered to be a legislative rule that would normally be subject to requirements for notice-and-comment rulemaking and a delayed effective date, the process is exempt from such requirements because it involves a foreign affairs function of the United

[243] 5 U.S.C. 553(b)(A).

[244] *See Lincoln* v. *Vigil,* 508 U.S. 182, 197 (1993) (quoting *Chrysler Corp.* v. *Brown,* 441 U.S. 281, 302 n.31 (1979)).

[245] A general policy statement typically uses permissive, rather than binding, language that leaves the agency free to exercise discretion. *See, e.g., Nat'l Mining Ass'n* v. *McCarthy,* 758 F.3d 243, 251–52 (D.C. Cir. 2014) (distinguishing legislative rules from general statements of policy, observing that ''[a]n agency action that merely explains how the agency will enforce a statute or regulation—in other words, how it will exercise its broad enforcement discretion or permitting discretion under some extant statute or rule—is a general statement of policy''); *Appalachian Power Co.* v. *EPA,* 208 F.3d 1015, 1023 (D.C. Cir. 2000) (rejecting the EPA's characterization of its document as guidance exempt from notice-and-comment rulemaking, reasoning that the guidance ''commands, . . . requires, . . . orders, [and] dictates''); *Cmty. Nutrition Inst.* v. *Young,* 818 F.2d 943, 946 (D.C. Cir. 1987) (per curiam) (noting as primary considerations whether the agency action (1) ''impose[s] any rights and obligations,'' or (2) ''genuinely leaves the agency and its decisionmakers free to exercise discretion'' (quotation marks omitted)).

[246] *See, e.g., Cuban Family Reunification Parole Program* (Nov. 21, 2007), *supra* note 65; *Central American Minors Parole Program* (Dec. 1, 2014), discussed at 82 FR 38926; *Haitian Family Reunification Parole Program* (Oct. 27, 2014), *supra* note 66; *Filipino World War II Veterans Parole Policy* (May 9, 2016), *supra* note 67; *Implementation of a Family Reunification Parole Process for Colombians, et al.* (July 10–Aug. 11, 2023), *supra* notes 68–72. Prior to these parole policy statements, even after Congress's limiting amendment to the parole statute in 1996 to require ''case-by-case'' consideration, the parole authority continued to be used expansively to create new parole programs and processes. In 2000, for example, the parole authority was used to entirely replace the statutorily sunsetting Visa Waiver Pilot Program under INA section 217, in order to provide the significant public benefit of avoiding the wholesale disruption of international travel and commerce, and the serious harm to the U.S. economy and foreign relations that would have been caused by suddenly imposing visa requirements on visitors for business or pleasure from most developed countries. *See, e.g., Visa Waiver Pilot Program Expires; INS Puts In Place Interim Procedures,* 77 Interpreter Releases 597 (May 8, 2000); Congressional Research Service, *Visa Waiver Program* (revised Aug. 1, 2016) at 29, available at *https://crsreports.congress.gov/product/pdf/RL/RL32221/42.* Under that parole process, tens of millions of foreign visitors were paroled into the United States on a case-by-case basis between May 1 and October 30, 2000, without rulemaking. Although DHS prescribed certain guidelines for determinations on parole from custody of certain noncitizens, *see* 8 CFR 212.5(b), and established the international entrepreneur parole process, *see* 8 CFR 212.19, through notice-and-comment rulemaking, this does not preclude the Department from electing, consistent with the APA, to forgo formal rulemaking. *See, e.g., Hoctor* v. *U.S. Dep't of Agric.,* 82 F.3d 165, 171–72 (7th Cir. 1996) (observing that there is nothing in the APA that forbids an agency's use of notice-and-comment procedures even if not required under the APA, and that courts should attach no weight to an agency's varied approaches involving similar rules).

[247] *Cent. Texas Tel. Coop.* v. *FCC,* 402 F.3d 205, 214 (D.C. Cir. 2005) (cleaned up); *accord Sec. Indus. and Fin. Mkts. Ass'n* v. *CFTC,* 67 F. Supp. 3d 373, 423 (D.D.C. 2014) (citing cases).

States.[248] Courts have held that this exemption applies when the rule in question '' 'is clearly and directly involved' in 'a foreign affairs function.' '' [249] In addition, although the text of the Administrative Procedure Act does not require an agency invoking this exemption to show that such procedures may result in ''definitely undesirable international consequences,'' some courts have required such a showing.[250]

This process is exempt under both standards. Specifically, as discussed above, this process is one part of the United States' ongoing efforts to engage hemispheric partners to increase their efforts to collaboratively manage irregular migration. Regularizing certain noncitizens who have lived in and established deep ties to the United States is a key request of our partner countries, and establishment of this proposed process will help ensure our partners' continued collaboration to address irregular migration in the Western Hemisphere and improve economic stability and security in countries that are common sources of irregular migration to the United States.[251]

Delaying issuance and implementation of this process to undertake rulemaking would complicate ongoing conversations with key foreign partners about migration management on a range of priorities. These priorities include collaborating with partner countries on initiatives aimed at disrupting human smuggling, trafficking, and transnational criminal networks; increasing migration controls on bus and train routes; [252] imposing additional visa requirements to prevent individuals from exploiting legitimate travel regimes to facilitate their irregular journey to the United States; [253] and expanding access to lawful pathways.

The delay associated with implementing this process through notice-and-comment rulemaking would adversely affect the United States' ability to negotiate with our international partners, including Mexico and Colombia, for additional enforcement measures and increased cooperation with removals. In the context of ongoing discussions on migration management, representatives of Mexico have specifically requested that the U.S. government regularize Mexican nationals who have been long-term residents of the United States.[254] Similarly, the Government of Colombia delivered a diplomatic note in April 2024 that requested Deferred Enforced Departure for certain nationals of Colombia residing in the United States, which would enable those individuals to remain lawfully in the United States and access work authorization. The Government of Colombia made similar requests in November 2022 through its ambassador to the United States [255] and again in May 2023 during high-level dialogues to stem the flows of irregular migration through the Darién and during negotiations to establish and extend Safe Mobility Offices [256] beyond the initial phase.

The invocation of the foreign affairs exemption here is also consistent with DHS precedent. For example, in 2017, DHS published a notice eliminating an exception to expedited removal for certain Cuban nationals, which explained that the change in policy was consistent with the foreign affairs exemption because the change was central to ongoing negotiations between the two countries.[257] DHS similarly invoked the foreign affairs exemption more recently in connection with the parole processes for Cubans, Haitians, Nicaraguans, and Venezuelans [258] and family reunification parole processes for certain nationals of Colombia, Ecuador, El Salvador, Guatemala, and Honduras, announced in 2023.[259]

C. Paperwork Reduction Act (PRA)

Under the Paperwork Reduction Act (PRA), 44 U.S.C. chapter 35, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any new reporting requirements they impose. The process announced by this notice requires a new collection of information on Form I–131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens (OMB control number 1615–NEW), which will be used for the parole in place process for certain noncitizen spouses and stepchildren of U.S. citizens. The Form I–131F will be available for online filing only to support more efficient adjudications and will charge a filing fee of $580 per requestor. The Form I–131F will require the requestor to submit biographic data, processing information, and other supporting documentation in order to evaluate the criteria outlined in this notice, including to: establish the requestor's status as either the spouse or stepchild of a U.S. citizen; rigorously screen the applicant for public safety and national security threats; identify whether the requestor has previously filed Form I–601A with USCIS; instruct the requestor on next steps for submitting required biometrics; and determine whether the requestor meets other criteria related to presence without admission or parole and physical presence for the requisite period, among other questions.

USCIS has submitted, and OMB has approved, the request for emergency authorization of the new Form I–131F (under 5 CFR 1320.13) for a period of 6 months. Within 60 days of publication of this notice at the **Federal Register**, USCIS will begin normal clearance procedures under the PRA to obtain

[248] *See* 5 U.S.C. 553(a)(1).

[249] *Mast Indus., Inc.* v. *Regan,* 596 F. Supp. 1567, 1582 (C.I.T. 1984) (quoting H.R. Rep. No. 79–1980, at 23 (1946)).

[250] *See, e.g., Rajah* v. *Mukasey,* 544 F.3d 427, 437 (2d Cir. 2008).

[251] *See, e.g.,* The White House, *Fact Sheet: The Los Angeles Declaration on Migration and Protection U.S. Government and Foreign Partner Deliverables* (June 10, 2022), available at *https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/fact-sheet-the-los-angeles-declaration-on-migration-and-protection-u-s-government-and-foreign-partner-deliverables/.*

[252] U.S. Dep't of State, Discussions with Mexican Officials on Migration at the Department of State (Jan. 20, 2024), available at *https://www.state.gov/discussions-with-mexican-officials-on-migration-at-the-department-of-state.*

[253] Ministry of Foreign Affairs of Mexico, Visas: Important Information, available at *https://embamex.sre.gob.mx/peru/index.php/sconsulares/visas* (last visited June 16, 2024).

[254] The White House, Mexico-U.S. Joint Communique, *supra* note 114.

[255] Manuel Rueda and Elliot Spagat, *Colombia asks for legal status for its people already in US,* Associated Press, Nov. 29, 2022, available at *https://apnews.com/article/venezuela-colombia-caribbean-united-states-immigration-7ed5fcde20338d56b04ff56925e54aff.*

[256] The Safe Mobility Initiative is one of the many ways the United States facilitates access to lawful pathways from partner countries in the region at no cost, so migrants do not have to undertake dangerous journeys in search of safety and better opportunities. *See* U.S. Safe Mobility Initiative—United States Department of State, Bureau of Population, Refugees, and Migration, Safe Mobility Initiative, available at *https://www.state.gov/refugee-admissions/safe-mobility-initiative/* (last visited July 24, 2024).

[257] *Eliminating Exception to Expedited Removal Authority for Cuban Nationals Encountered in the United States or Arriving by Sea,* 82 FR 4902 (Jan. 17, 2017).

[258] *See Implementation of a Parole Process for Cubans,* 88 FR 1266 (Jan. 9, 2023); *Implementation of a Parole Process for Haitians,* 88 FR 1243 (Jan. 9, 2023); *Implementation of a Parole Process for Nicaraguans,* 88 FR 1255 (Jan. 9, 2023); and *Implementation of Changes to the Parole Process for Venezuelans,* 88 FR 1279 (Jan. 9, 2023).

[259] *See* U.S. Dep't of Homeland Security, DHS Announces Family Reunification Parole Processes for Colombia, El Salvador, Guatemala, and Honduras (July 17, 2023), *https://www.dhs.gov/news/2023/07/07/dhs-announces-family-reunification-parole-processes-colombia-el-salvador-guatemala; see also Implementation of a Family Reunification Parole Process for Colombians, et al., supra* notes 68–72.

three-year approval for this collection.[260]

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2024–18725 Filed 8–19–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AZ_FRN_MO4500181369]

Establishment and Call for Nominations for the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is publishing this notice in accordance with the Federal Land Policy and Management Act, as amended (FLPMA), the Federal Advisory Committee Act (FACA), and Presidential Proclamation 10606, ''Establishment of the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument''. The BLM gives notice that the Secretary of the Interior is establishing the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument Advisory Committee (MAC) and is seeking nominations for individuals to be considered as MAC members.

DATES: Comments regarding the establishment of this MAC must be submitted no later than September 4, 2024. All nominations must be received no later than October 4, 2024.

ADDRESSES: Comments regarding the establishment of the MAC and nominations for the MAC should be sent to the BLM office listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Rachel Carnahan, Public Affairs Specialist, BLM Arizona Strip District Office, 345 E Riverside Drive, St. George, UT 84780, phone: (435) 688–3303, email: *rcarnahan@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 10533 directs the Secretary of the Interior, through the Director of the BLM, and the Secretary of Agriculture, through the Chief of the U.S. Forest Service, to establish and maintain an advisory committee under FACA (5 U.S.C. ch. 10) with the specific purpose of providing information and advice regarding the development of the management plan and, as appropriate, management of the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument. The MAC is established in accordance with section 309 of FLPMA, as amended (43 U.S.C. 1739). The BLM is subject to standards and procedures for the creation, operation, and termination of BLM resource advisory councils at 43 CFR 1784.

The MAC will include 15 members to be appointed by the Secretary of the Interior and the Secretary of Agriculture as follows:

1. A representative of the Arizona Game and Fish Department;
2. A representative employed by a State agency;
3. An elected official from local government;
4. Three representatives of Tribal Nations;
5. A representative of developed outdoor recreation, off-highway vehicle users, or commercial recreation activities in the Monument;
6. A representative of the conservation community;
7. A representative of wildlife, hunting, or fishing organizations;
8. A representative of cultural or historical interests;
9. A representative of the scientific community;
10. A representative of the ranching community;
11. A representative of local business owners; and
12. Two representatives of the public-at-large.

Members will be appointed to the MAC to serve three-year staggered terms.

Nominating Potential Members: Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding the membership requirements of the MAC and permit the Department of the Interior to contact a potential member. Nominees are strongly encouraged to include supporting letters from employers, associations, professional organizations, and/or other organizations that indicate support by a meaningful constituency for the nominee. Please indicate any BLM permits, leases, or licenses that you hold personally or are held by your employer. Members of the MAC serve without compensation. However, while away from their homes or regular places of business, members engaged in MAC business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

The MAC will meet approximately two to four times annually, and at such other times as designated by the Designated Federal Officer.

Simultaneous with this notice, the BLM will issue a press release providing additional information for submitting nominations.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Deb Haaland,

Secretary of the Interior.

[FR Doc. 2024–18663 Filed 8–19–24; 8:45 am]

BILLING CODE 4331–12–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before August 10, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by September 4, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public

[260] *See* 5 CFR 1320.8(d) and 1320.10(e).

Comment on <property or proposed district name, (County) State>.'' If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before August 10, 2024. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers

Key: State, County, Property Name, Multiple Name(if applicable), Address/Boundary, City, Vicinity, Reference Number.

ARKANSAS

Cleveland County

Cherry Cemetery, East side of Mt. Elba Road. approximately ½ mile south of Mt. Elba cutoff, Rison, SG100010830

Faulkner County

Conway Mayes Marker, 487 U.S. 64 East, Conway, SG100010832

Marion County

WPA Privy, (New Deal Recovery Efforts in Arkansas MPS), Southwest of the East Hanson Street and Bright Loop intersection, Pyatt, MP100010838

Yellville West Overpass, Marion County Road 4052. approximately 325 feet west of U.S. 62/412, Yellville, SG100010839

Polk County

Wickes School, 132 Highway 278 East, Wickes, SG100010843

Pope County

Old Town Historic District, Roughly bounded by W. yc1 SL S. Boulder Ave., W. 8th St., and S. Glenwood Ave., Russellville, SG100010836

Pulaski County

The Worthen Building, 200 West Capitol Avenue, Little Rock, SG100010828

Chicago. Rock Island & Pacific Railway Overpass, Hilaro Springs Road over Fourche Creek, Little Rock, SG100010829

Searcy County

Cove Creek Bridge, Arkansas Highway 66 over Cove Creek, Leslie, SG100010840

White County

Searcy Commercial Historic District, Courthouse Square (300 N Spruce St.). 100 block of W Arch Ave., 100 and 200 block of W Market Ave. (south side only). 100 block of W Race Ave. 118–120 N Spruce St., and 100 and 200 block of N Spring St., Searcy, SG100010831

CALIFORNIA

Los Angeles County

Avery, Kenneth Newell, Studio, 377 Arroyo Terrace, Pasadena, SG100010825

St. Vincent's Seminary Historic District, 1105 S Bluff Road and 420 Date Street, Montebello, SG100010827

Tulare County

Hyde, Jeremiah D. and Mary, House, 513 N Encina Street, Visalia, SG100010826

CONNECTICUT

Fairfield County

Fairfield Hills Campus Historic District, 1st St., Keating Farms Ave., Primrose St., Trades Ln., Wasserman Way, Newtown, SG100010816

MAINE

Oxford County

Rumford Center Meeting House, 1352 US Route 2, Rumford, SG100010822

Penobscot County

Morse's Corner School, 22 White Road, Corinna, SG100010823

MINNESOTA

Scott County

Sakpe Mounds-Pond Mounds Site, (Woodland Tradition in Minnesota MPS), Address Restricted, Shakopee vicinity, MP100010819

Sakpe Mounds-Steele Mounds Site, (Woodland Tradition in Minnesota MPS), Address Restricted, Shakopee vicinity, MP100010820

OHIO

Franklin County

McClure-Nesbitt Motor Company, 1505 East Main Street, Columbus, SG100010844

Stark County

Thomas, Dr. Kersey G., House and Office, 12315 Marlboro Avenue NE, Alliance (Marlboro), SG100010821

VERMONT

Washington County

Trow & Holden Stone Tool Manufacturing Complex, 45 South Main Street, Barre City, SG100010824

VIRGINIA

Nelson County

Warminster Rural Historic District, Cabell Road, James River Road, Mayo Creek Lane, Mayo Creek Road, Mickens Lane, Midway Mills Lane, Ponderosa Lane, Ponderosa, River Circle, Warminster Drive, and Warminster Road, Warminster, SG100010833

Roanoke

Independent City

Norwich Historic District, 1815–2433 Roanoke Avenue SW, 614–920 Bridge Street SW, Penn Street SW, Russell Avenue SW, Buford Avenue SW, Charlevoix Court SW, Irvine Street SW, Warwick Street SW, Rolfe Street SW, Ashlawn Street SW, and Bedford Street SW, Roanoke, SG100010835

Warren County

Bel Air, 269 Happy Creek Road, Front Royal, SG100010834

WISCONSIN

Jackson County

Spring Creek School, N5311 Moss Hill Road, Town of Albion, SG100010817

An additional documentation has been received for the following resource(s):

ARKANSAS

Pope County

Wilson Hall (Additional Documentation), (Public Schools in the Ozarks MPS), N. El Paso St., Russellville, AD92001209

KANSAS

Douglas County

University of Kansas Historic District (Additional Documentation), Roughly bounded by W Campus Rd., S edge of Jayhawk Blvd., Sunnyside Ave., Lilac Ln., Oread Ave., and W 13th St., Lawrence, AD13000167

MASSACHUSETTS

Worcester County

Eastwood Cemetery (Additional Documentation), Old Common-Wilder Road, Lancaster, AD100010282

North Burial Ground (Additional Documentation), Old Union Turnpike, Lancaster, AD100010567

TENNESSEE

Hamilton County

Read House (Additional Documentation), 107 West M.L.K. Boulevard, Chattanooga, AD76001780

Knox County

Old Post Office Building (Additional Documentation), 600 Market Street, Knoxville, AD73001804

WISCONSIN

Dane County

Camp Randall (Additional Documentation), Camp Randall Memorial Park, Madison, AD71000036

Authority: Section 60.13 of 36 CFR part 60.

Paul R. Lusignan,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2024–18571 Filed 8–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038528; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of North Dakota, Grand Forks, ND

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of North Dakota has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 19, 2024.

ADDRESSES: Dr. Crystal Alberts, University of North Dakota, Twamley Hall Room 300, 264 Centennial Drive, Grand Forks, ND 58202, phone (701) 777–2393, email *und.nagpra@und.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of North Dakota, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, three individuals have been reasonably identified. No associated funerary objects are present. The University of North Dakota (UND) and Indiana University, Bloomington (IU) have no record of any potentially hazardous substances being used to treat the human remains described in this notice.

Between June 25–August 1, 1948, as part of the Missouri Valley Project of the Smithsonian River Basin Surveys, former UND faculty member Gordon W. Hewes and a field team excavated two or more mound groups in Barnes County, ND from a site later designated 32BA1 and referred to as Baldhill Mounds. In 1949, Hewes placed a number of human remains and associated funerary objects from 32BA1 on indefinite loan to IU through former IU faculty member, Georg K. Neumann.

In March 2022, human remains from 32BA1 were found on UND's campus in the Department of Anthropology. Some of the human remains detailed in this notice from 32BA1 were found on IU's campus sometime between 2021 and 2022. Separately, human remains from 32BA1 were sent to the Smithsonian National Museum of Natural History at an unknown time by an unknown individual or individuals. The human remains were transported back to IU from the Smithsonian in February 2024. In November 2023, UND recalled the loan, and in March 2024, UND faculty transported the human remains from IU to UND.

Based on the information available, human remains representing, at least, two individuals have been reasonably identified, along with 51 associated funerary objects, consisting of faunal bones and faunal bone fragments. The University of North Dakota (UND) and Indiana University, Bloomington (IU) have no record of any potentially hazardous substances being used to treat the human remains and associated funerary objects described in this notice. Henry Montgomery, former UND faculty member and acting President, conducted numerous excavations of mounds in Ramsey County, ND and Nelson County, ND in mid-August–September 1887. Montgomery also excavated two mounds within Grand Forks County, ND, as well as mounds in Walsh County, ND now with the designation 32WA1 (Blasky or Fordville Mounds). In 1949, Gordon W. Hewes, former UND faculty, placed these human remains and associated funerary objects on indefinite loan to IU through former IU faculty member, Georg K. Neumann. The human remains and associated funerary objects detailed in this notice were found on IU's campus sometime between 2021 and 2022. In November 2023, UND recalled the loan, and in March 2024, UND faculty transported the human remains and associated funerary objects from IU to UND.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location of the human remains described in this notice.

Determinations

The University of North Dakota has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The 51 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the human remains described in this notice and the Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Turtle Mountain Band of Chippewa Indians of North Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after September 19, 2024. If competing requests for repatriation are received, the University of North Dakota must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of North Dakota is responsible for sending a copy of this notice to the Indian Tribes

and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 7, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18680 Filed 8–19–24; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[No. 337–TA–1252 (Rescission)]

Certain Robotic Floor Cleaning Devices and Components Thereof; Notice of Commission Decision To Vacate the Portion of Its Final Determination Relating to an Expired Patent, To Institute a Rescission Proceeding, and To Rescind the Remedial Orders Based Thereon; Termination of the Rescission Proceeding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to vacate the portion of its final determination relating to U.S. Patent No. 10,813,517 (''the '517 patent''), which has now expired, and to dismiss the related portion of the complaint. The Commission has also determined to institute a rescission proceeding and to rescind the limited exclusion order and cease and desist orders (collectively, ''the remedial orders'') issued in the underlying investigation which are based on the '517 patent. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 2, 2021, based on a complaint filed on behalf of iRobot Corporation (''iRobot'' or ''Complainant'') of Bedford, Massachusetts. *See* 86 FR 12206–07 (Mar. 2, 2021). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain robotic floor cleaning devices and components thereof based on the infringement of certain claims of the '517 patent; as well as U.S. Patent Nos. 9,884,423 (''the '423 patent''); 7,571,511 (''the '511 patent''); 10,835,096 (''the '096 patent''); and 10,296,007 (''the '007 patent''). *See id.* The Commission's notice of investigation named as respondents SharkNinja Operating LLC, SharkNinja Management LLC, SharkNinja Management Co., SharkNinja Sales Co., and EP Midco LLC, all of Needham, Massachusetts; and SharkNinja Hong Kong Co. Ltd. of Hong Kong Island, Hong Kong (collectively, ''SharkNinja'' or ''Respondents''). *See id.* The Office of Unfair Import Investigations did not participate in the investigation. *See id.*

The Commission terminated the '007 patent from the investigation. *See* Order No. 23 (Sept. 13, 2021), *unreviewed by* Comm'n Notice (Oct. 5, 2021); Order No. 38 (Jan. 4, 2022), *unreviewed by* Comm'n Notice (Jan. 25, 2022).

On March 21, 2023, the Commission issued a final determination finding a violation of section 337 based on the infringement of claims 1 and 9 of the '517 patent. The Commission found no violation of section 337 based on the '423, '511, and '096 patents. Accordingly, the Commission issued the remedial orders based solely on the '517 patent.

On July 14, 2023, SharkNinja filed an appeal from the Commission's final determination with the U.S. Court of Appeals for the Federal Circuit. The appeal was docketed on July 20, 2023, as *SharkNinja Operating LLC* v. *ITC,* No. 23–2162 (Fed. Cir. July 20, 2023). Complainant iRobot did not seek to intervene in the Federal Circuit appeal.

On February 21, 2024, the Commission and SharkNinja filed a joint unopposed motion to stay and dismiss the appeal upon expiration of the '517 patent on July 24, 2024. Consistent with Federal Circuit precedent, the Commission and SharkNinja requested vacatur of the Commission's final determination as it relates to the '517 patent and a remand to the Commission with instructions to dismiss the relevant portion of the complaint and to rescind the remedial orders which are based solely on the '517 patent.

The Federal Circuit granted the motion to stay on March 22, 2024, and dismissed the appeal on July 24, 2024. *See* ECF No. 22 (Fed. Cir. Mar. 22, 2024); ECF No. 24 (Fed. Cir. July 24, 2024). The Federal Circuit remanded the appeal to the Commission with instructions to vacate its final determination and to dismiss the relevant portion of the complaint.

In view of the Federal Circuit's remand order and the expiration of the '517 patent, the Commission has determined to vacate the portion of its final determination relating to the '517 patent and to dismiss the related portion of the complaint.

In addition, as explained in the Commission Order issued concurrently herewith, the Commission finds that the conditions which led to the issuance of the remedial orders no longer exist, and therefore, a rescission of the remedial orders is warranted under section 337(k) (19 U.S.C. 1337(k)) and Commission Rule 210.76(a) (19 CFR 210.76(a)). Accordingly, the Commission has determined to institute a rescission proceeding and to rescind the remedial orders issued in the underlying investigation which are based on the '517 patent. The rescission proceeding is terminated.

The Commission's notice and order were delivered to the Secretary of the Treasury on the day of their issuance.

The Commission's vote for this determination took place on August 14, 2024.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 14, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–18543 Filed 8–19–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1318 (Modification (II))]

Certain Graphics Systems, Components Thereof, and Digital Televisions Containing the Same; Notice of Commission Determination Not To Review an Initial Determination Granting a Joint Motion to Termination a Modification Proceeding Based on a Settlement Agreement; Termination of the Modification Proceeding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 79) of the presiding administrative law judge (''ALJ'') granting complainants and respondent Realtek Semiconductor Corporation's (''Realtek'') joint motion to terminate based on a settlement agreement a proceeding to modify a limited exclusion order (''LEO'') issued in the underlying investigation. The modification proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 7, 2022, based on a complaint filed by Advanced Micro Devices, Inc. of Santa Clara, California and ATI Technologies ULC of Ontario, Canada (together, ''AMD''). 87 FR 34718–19 (June 7, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on certain graphics systems, components thereof, and digital televisions containing the same by reason of infringement of certain claims of U.S. Patent Nos. 7,742,053; 8,760,454; 11,184,628; 8,468,547; and 8,854,381 (''the '381 patent''). *Id.* at 34718. The complaint further alleges that a domestic industry exists. *Id.* The notice of institution named 14 respondents: (1) TCL Industries Holdings Co., Ltd. of Guangdong, China; (2) TCL Industries Holdings (H.K.) Co. Limited of Hong Kong, China; (3) TCL Electronics Holdings Ltd. f/k/a TCL Multimedia Technology Holdings, Ltd. of Hong Kong, China; (4) TCL Technology Group Corporation of Guangdong, China; (5) TTE Corporation of Hong Kong, China; (6) TCL Holdings (BVI) Ltd. of Hong Kong, China; (7) TCL King Electrical Appliances (Huizhou) Co. Ltd. of Guangdong, China; (8) Shenzhen TCL New Technology Co., Ltd. of Guangdong, China; (9) TCL MOKA International Ltd. of Hong Kong, China; (10) TCL Smart Device (Vietnam) Co., Ltd. of Binh Duong Province, Vietnam; (11) Manufacturas Avanzadas SA de CV of Chihuahua, Mexico; (12) TCL Electronics Mexico, S de RL de CV of Benito Juarez, Mexico; (13) TCL Overseas Marketing Ltd. of Hong Kong, China; and (14) Realtek of Hsinchu, Taiwan. *Id.* at 34719, as amended, 87 FR 62452–53 (Oct. 14, 2022). The Office of Unfair Import Investigations was not named as a party to this investigation. 87 FR at 34719.

On September 26, 2022, the Commission allowed TTE Technology, Inc. of Corona, California to intervene in this investigation as an additional respondent (collectively, with all named respondents except for Realtek, ''TCL''). *See* Order No. 17 (Aug. 30, 2022), *unreviewed by* Comm'n Notice (Sept. 26, 2022).

On January 24, 2024, the Commission issued a final determination finding a violation of section 337 by TCL and Realtek with respect to claims 19 and 20 of the '381 patent. 89 FR 5934–35 (Jan. 30, 2024); *see* Comm'n Opinion (Jan. 24, 2024). The Commission determined that the appropriate remedy is: (i) an LEO against TCL's and Realtek's infringing products and (ii) cease and desist orders (''CDOs'') against each of the TCL entities, but not against Realtek. 89 FR at 5935. The Commission also set the bond during the period of Presidential review at zero (0) percent of the entered value of the infringing articles. *Id.*

On March 28, 2024, Realtek filed an appeal from the Commission's final determination with the U.S. Court of Appeals for the Federal Circuit. *See Realtek Semiconductor Corp.* v. *ITC,* Appeal Nos. 24–1613. On July 1, 2024, the Federal Circuit granted Realtek's voluntary dismissal of the appeal. *See id.,* ECF No. 28.

On June 7, 2024, based on a settlement agreement between AMD and TCL, the Commission issued a modified LEO directed only to Realtek's infringing products, and rescinded the CDOs against TCL. *See* Modified LEO at 1 (June 7, 2024); Comm'n Order at 6 (June 7, 2024).

On May 21, 2024, the Commission instituted a modification proceeding as to the LEO based on a changed condition of fact alleged by Realtek. 89 FR 46158–59 (May 28, 2024). On June 27, 2024, AMD and Realtek filed a joint motion to terminate the modification proceeding based on a June 17, 2024 settlement agreement between AMD and Realtek, attaching thereto as Exhibit B a non-confidential version of the settlement agreement. That same day, Realtek filed a separate correspondence to the Secretary attaching thereto as Exhibit A the unredacted version of the settlement agreement.

On July 5, 2024, the ALJ issued Order No. 78, which (i) ordered AMD and Realtek to ''revise and refile the non-confidential version of the agreement required by Commission Rules 210.21(a)(2) and 210.21(b)(1) [19 CFR 210.21(a)(2) and (b)(1)], and in accordance with Commission Rule 201.6 [19 CFR 201.6],'' and (ii) stated that the motion to terminate will be ruled upon after the revised non-confidential version of the agreement is refiled. Order No. 78 at 2 (July 5, 2024). On July 12, 2024, in response to Order No. 78, Realtek filed a revised non-confidential version of the subject agreement (Ex. B).

On July 15, 2024, the ALJ issued the subject ID (Order No. 79) granting the joint motion to terminate the modification proceeding. The ALJ found that the motion complies with the requirements of Commission Rule 210.21(b)(1) (19 CFR 210.21(b)(1)), including the submission of confidential and non-confidential versions of the subject agreement in compliance with Commission Rule 201.6 (19 CFR 201.6), and that there is no evidence that terminating the proceeding would be contrary to the public interest in accordance with Commission Rule 210.50(b)(2) (19 CFR 210.50(b)(2)). Order No. 79 at 2 (July 15, 2024). No petitions for review of the subject ID were filed.

The Commission has determined not to review the subject ID. The modification proceeding is terminated.

The Commission vote for this determination took place on August 14, 2024.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as

amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 14, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–18582 Filed 8–19–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0104]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; District/Aviation Security Officers (DSO/ASO) Personal Qualifications Statement

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The U.S. Marshals Service, 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 21, 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 Assistant Chief Karl Slazer/Management Support Division, U.S. Marshals Service Headquarters, 1215 S Clark St., Ste. 10017, Arlington, VA 22202–4387, by telephone at 202–360–7359 or by email at *karl.slazer@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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: This form will primarily be used to collect applicant reference information. Reference checking is an objective evaluation of an applicant's past job performance based on information collected from key individuals (*e.g.,* supervisors, peers, subordinates) who have now and worked with the applicant. Reference checking is a necessary supplement to the evaluation of resumes and other Descriptions of training and experience, and allows the selecting official to hire applicants with a strong history of performance. The questions on this form have been developed following the OPM, MSPB, and DOJ ''Best Practice'' guidelines for reference checking.

Overview of This Information Collection

1. Type of Information Collection: No material or nonsubstantive change to a currently approved collection.

2. The Title of the Form/Collection: District/Aviation Security Officers (DSO/ASO) Personal Qualifications Statement.

3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: USM–234.

4. Affected public who will be asked or required to respond, as well as the obligation to respond:

- Affected Public: District/Aviation Security Officers Job Applicants.
- 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 1,000 respondents will utilize the form, and it will take each respondent approximately 45 minutes to complete the form.

6. An estimate of the total annual burden (in hours) associated with the collection: The estimated annual public burden associated with this collection is 750 hours, which is equal to 1,000 (total # of annual responses) * (45 mins).

7. An estimate of the total annual cost burden associated with the collection, if applicable:

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Ex: Survey (individuals or households)	1,000	1/annually	1,000	45 min	750
Unduplicated Totals	1,000		1,000		750

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. 2024–18568 Filed 8–19–24; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Confined Spaces in Construction

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational

Safety & Health Administration (OSHA)-sponsored 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 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before September 19, 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: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Confined Spaces in Construction Standard permits employers and employees to systematically evaluate the dangers in confined spaces before entry is attempted and ensures that adequate measures have been implemented to make the spaces safe for entry. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 22, 2024 (89 FR 45019).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of 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.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL 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 DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Confined Spaces in Construction.

OMB Control Number: 1218–0258.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 32,510.

Total Estimated Number of Responses: 4,389,056.

Total Estimated Annual Time Burden: 706,653 hours.

Total Estimated Annual Other Costs Burden: $1,100,529.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–18588 Filed 8–19–24; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 24–052; NASA Docket Number: NASA–2024–0008]

Information Collection; NASA Property in the Custody of Award Recipients and Property Management System Analysis (PMSA)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of a renewal 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 October 21, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at *http://www.regulations.gov* and search for NASA Docket NASA–2024–0008.

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

To ensure accurate reporting of Government-owned, contractor-held property on the financial statements and to provide information necessary for effective property management in accordance with FAR Part 45, NASA obtains summary data annually from the official Government property records maintained by its award recipients with contracts, grants and cooperative agreements. The information is submitted via the NASA Form 1018, at the end of each fiscal year. Additional information submitted to approve the accuracy of the award recipient property management system compliance is submitted via NASA Form 1019, at the beginning of awards with NASA property in the hands of award recipients; and same information gathered by Federal agencies assisting NASA according to risk matrix. Information for property management system in accordance with FAR Part 45, NASA is the agency responsible for contract award administration shall conduct an analysis of the award recipient's property management policies, procedures, practices, and systems.

II. Methods of Collection

Electronic.

III. Data

Title: NASA Property in the Custody of Award Recipients.

OMB Number: 2700–0017.

Type of review: Renewal of a previously approved information collection.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Number of Activities: 1,200.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 1,200.

Estimated Time per Response: 1.5 hours.

Estimated Total Annual Burden Hours: 1,800.

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. 2024–18661 Filed 8–19–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice; request for comments.

SUMMARY: The National Endowment for the Humanities (NEH) is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, NEH is requesting comments from all interested individuals and organizations on this proposed collection.

DATES: Please submit comments by September 19, 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: Lutie Rodriguez, Data Coordination & Enablement Officer, Office of Data and Evaluation, National Endowment for the Humanities: 400 Seventh Street SW, Washington, DC 20506; (202) 606–8331; or *lrodriguez@neh.gov.*

SUPPLEMENTARY INFORMATION: NEH first published notice of its intent to seek OMB approval for this information collection in the **Federal Register** of May 24, 2024 (89 FR 45926) and allowed 60 days for public comment. The agency received no public comments. The purpose of this notice is to allow an additional 30 days for public comment.

Overview of This Information Collection

Type of Review: Revision of an existing information collection.

Title of Information Collection: Generic Clearance Authority for the National Endowment for the Humanities.

Abstract: The National Endowment for the Humanities is seeking to renew its generic clearance authority. The generic clearance authority includes all NEH information collections, except one-time evaluations, questionnaires, and surveys.

NEH's burden estimate for this clearance is 301,962 and the estimated number of respondents is 13,014, an increase from the estimates in the 60-day notice of 296,433 hours and 6,767 respondents. The updated estimates better represent the number of individuals responding to NEH's information collections under this clearance and their time spent.

OMB Number: 3136–0134.

Affected Public: Applicants to NEH grant programs, reviewers of NEH grant applications, and NEH award recipients.

Frequency of Collection: On occasion.

Total Respondents: 13,014.

Total Responses: 13,014.

Estimated Time per Response: Varies according to type of information collection.

Estimated Total Burden Hours: 301,962.

Request for Comments

The public is invited to comment on all aspects of this ICR, including: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Dated: August 14, 2024.

Jessica Graves,

Paralegal Specialist, National Endowment for the Humanities.

[FR Doc. 2024–18579 Filed 8–19–24; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; NSF I-Corps Teams Executive Summary Form

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to establish this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by October 21, 2024 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite E6300, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION: *Title of Collection:* NSF I-Corps Teams Executive Summary Form.

OMB Control No.: 3145–New.

Expiration Date of Approval: Not applicable.

Abstract: The NSF Innovation Corps (I-Corps) Teams Program Executive Summary is an important component of the NSF I-Corps Teams pre-submission process and conveys information needed to direct the proposed team project to the appropriate NSF Program Director (PD) for review and possible proposal submission invitation. This Executive Summary (ES) is to be submitted by the applying team to the cognizant I-Corps Team's PD outlining solicitation-specific aspects of the project (such as proposed team members, technology, commercial application and NSF lineage). In the past, this ES was submitted via email as an attached two-page (maximum) document and was often in varying formats or missing some parts of the required ES elements. The NSF I-Corps Teams Executive Summary Form captures the same requested information, as outlined in NSF I-Corps Teams Program solicitation, but all within one secure, web-based form. In specific, the form collects submitting team member information (composition, roles and a brief description of each member's qualifications), Principal Investigator (PI) information (and a brief description of their connection to the team), NSF lineage (relevant current or previous NSF awards), brief descriptions of the core technology, the potential commercial application, and the current commercialization plan for the proposed technology. If the proposed I-Corps Team is applying based on participation in a local or regional NSF I-Corps Hub, Node or Site training session, the form will provide fields for the applying team to complete regarding the associated I-Corps Hub, Node or Site senior member's contact information (as a reference), the date of participation, and location of the associated Hub, Node or Site program.

Respondents: Investigators who submit proposals to NSF's I-Corps Teams Program.

Estimated Number of Annual Respondents: 400.

Burden on the Public: 2 hour (per response) for an annual total of 800 hours.

Dated: August 15, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024–18616 Filed 8–19–24; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Engineering (#1170) (Hybrid Meeting).

Date and Time: September 19, 2024; 10:00 a.m.–5:15 p.m. (Eastern); September 20, 2024; 8:30 a.m.–1:00 p.m. (Eastern).

Place: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314 (Virtual and In-person).

Additional meeting information, an updated agenda, and registration information will be posted on the advisory committee website at: *https://www.nsf.gov/eng/advisory.jsp.*

Type of Meeting: Open.

Contact Persons: Don Millard, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8300.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to engineering programs and activities.

Agenda

Thursday, September 19, 2024

- Welcome
- Directorate for Engineering (ENG) Report
- Communicating Impacts of Engineering on Society
- Division of Civil, Mechanical and Manufacturing Innovation (CMMI) overview and Committee of Visitors (COV) report
- Division of Chemical, Bioengineering, Environmental and Transport Systems (CBET) overview and COV report
- Division of Electrical, Communications and Cyber Systems (ECCS) overview and COV report
- Division of Engineering Education and Centers (EEC) overview and COV report
- ENG-wide COV discussion
- Strategic Recommendations for ENG
- Preparation for Discussion with the Director's Office

Friday, September 20, 2024

- Reports from Advisory Committee Liaisons
- Research Security
- Preparation for Discussion with the Director's Office
- Perspective from the Director's Office
- Strategic Recommendations for ENG
- Closing Remarks

Date: August 15, 2024.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2024–18662 Filed 8–19–24; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Request for Information: Biomaterials Program

AGENCY: National Science Foundation.

ACTION: Request for Information.

SUMMARY: The U.S. National Science Foundation's (NSF) Biomaterials (BMAT) Program requests input from stakeholders on opportunities, challenges, emerging areas, and frontiers in biomaterials research. This RFI will help inform NSF as it considers future program directions, new initiatives, and potential funding opportunities.

DATES: Interested persons are invited to submit comments between August 14 and September 19, 2024.

FOR FURTHER INFORMATION CONTACT: Nitsa Rosenzweig, Biomaterials Program Director, 2415 Eisenhower Avenue, Room W 9213, Alexandria, Virginia 22314; telephone (703) 292–7256; or send email to *nirosenz@nsf.gov.*

Dan Savin, Biomaterials Program Director, 2415 Eisenhower Avenue, Room W 9213, Alexandria, Virginia 22314; telephone (703) 292–4644; or send email to *dsavin@nsf.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Instructions: Response to this RFI is voluntary and anonymous. Respondents may participate in this RFI by submitting comments through the online survey at *www.surveymonkey.com/r/BMAT-2024-RFI.* Each individual is requested to submit only one response. Please limit your response to no more than 100 words per question.

In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

Background Information: The Biomaterials program supports fundamental materials research related to (1) biological materials, (2) biomimetic, bioinspired, and bioenabled materials, (3) synthetic materials

intended for applications in contact with biological systems, and (4) the processes through which nature produces biological materials. This RFI is part of NSF's effort to think about opportunities, challenges, emerging areas, and frontiers in biomaterials research.

Information Requested: Responders are asked to answer one or more of the following questions in responses to the RFI:

1. What are emerging research areas at the frontier of biomaterials research?

2. Briefly describe areas in which the biomaterials community can address societal needs or benefit society.

3. What potential deliverables or advances in biomaterials are achievable in a five-year effort?

4. What disciplines in industry, academia, government, philanthropy, non-profits, or another sector outside of the biomaterials community could serve as partners in solving specific biomaterials-related challenges? Please identify the challenges that may be addressed by each partnership.

(Authority: 42 U.S.C. 1861, et al.)

Dated: August 15, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024–18650 Filed 8–19–24; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100727; File No. 4–698]

Joint Industry Plan; Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail Regarding Reporting of Certain Verbal Activity, Floor and Upstairs Activity

August 14, 2024.

I. Introduction

On August 2, 2024, the Consolidated Audit Trail, LLC (''CAT LLC''), on behalf of the following parties to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''): [1] BOX Exchange LLC; Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX, LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the ''Participants,'' ''self-regulatory organizations,'' or ''SROs'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Exchange Act''),[2] and Rule 608 thereunder,[3] a proposed amendment to the CAT NMS Plan to amend existing requirements for the consolidated audit trail (''CAT'') regarding the reporting of certain verbal activity, floor and upstairs activity (the ''Verbal Quotes Amendment'').[4] Set forth in Section II is the statement of purpose and summary of the amendment, along with information required by Rules 608(a)(4) and 608(a)(5) under the Exchange Act,[5] and *Exhibit A,* which contains the proposed revisions to the CAT NMS Plan, all substantially as prepared and submitted by the Participants to the Commission.[6] The Commission is publishing this notice to solicit comments from interested persons on the amendment.[7]

II. Description of the Plan

CAT LLC proposes to amend the CAT NMS Plan to clearly and permanently exclude the following activities from reporting to the Central Repository:

i. floor broker verbal announcements of firm orders on an exchange that are otherwise reported as systematized orders;

ii. market maker verbal announcements of firm quotes on an exchange trading floor;

iii. telephone discussions between an Industry Member and a client that may involve firm bid and offer communications; and

iv. unstructured electronic and verbal communications that are not currently captured by Industry Member order management or execution systems (*e.g.,* Bloomberg chats, text messages)

(the foregoing (i)–(iv), collectively, the ''Exempt Activities'').

CAT LLC has consistently reiterated its longstanding view that the Exempt Activities were never contemplated by Rule 613 or the CAT NMS Plan, and has noted that there is no discussion in the CAT NMS Plan or the CAT NMS Plan Adopting Release regarding these activities.[8] Likewise, the Financial Information Forum (''FIF'') has also made clear that unstructured verbal and electronic upstairs activities are not reportable to CAT under Rule 613 because they represent indications of interest—not orders.[9] The Participants believe that the analysis in the December 2022 FIF Letter explaining why unstructured verbal and electronic upstairs activities are not reportable to CAT under Rule 613 (including the challenges that would be associated with reporting those activities) applies equally to communications on exchange trading floors. Nevertheless, because the Commission has expressed a different interpretation of Rule 613 and the CAT NMS Plan,[10] CAT LLC previously requested, and the Commission granted, temporary exemptive relief related to reporting of the Exempt Activities through July 31, 2026 (the ''July 2023 Exemptive Order'').[11]

[1] The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016). The full text of the CAT NMS Plan is available at *www.catnmsplan.com.*

[2] 15 U.S.C 78k–1(a)(3).

[3] 17 CFR 242.608.

[4] *See* Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission, dated March 27, 2024 (the ''Transmittal Letter'').

[5] *See* 17 CFR 242.608(a)(4) and 17 CFR 242.608(a)(5).

[6] *See* Transmittal Letter, *supra* note 4. Unless otherwise defined herein, capitalized terms used herein are defined as set forth in the CAT NMS Plan.

[7] 17 CFR 242.608.

[8] Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Mar. 31, 2023), *https://www.catnmsplan.com/sites/default/files/2023-03/03.31.23-CAT-Exemption-Request-Verbal-Floor-and-Upstairs-Activity.pdf* (the ''*March 2023 Exemption Request*''*);* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (July 1, 2020) (the ''July 2020 Exemption Request''), *https://www.catnmsplan.com/sites/default/files/2020-07/07.01.2020-Exemptive-Request-Re-Verbal-Activity.pdf.* While seeking to clarify the Plan in this regard, the Participants continue to believe that the Exempt Activities are not required to be reported by Rule 613 or the CAT NMS Plan. Nothing herein should be construed to the contrary with respect to this position. To the extent the SEC disagrees with the proposed amendments to the CAT NMS Plan outlined herein, the Participants reserve all of their rights with respect to the Participants' position that reporting of the Exempt Activities to CAT was never contemplated by Rule 613 or the CAT NMS Plan.

[9] Letter from Howard Meyerson, Managing Director, Financial Information Forum, to Commission at 11–12 (Dec. 16, 2022) (''December 2022 FIF Letter'').

[10] *Exchange Act Release No. 90405 (Nov. 12, 2020), 85 FR 73544 (Nov. 18, 2020)* (''November 2020 Exemptive Order''), *https://www.sec.gov/rules/exorders/2020/34-90405.pdf.*

[11] Exchange Act Release No. 98023 (July 28, 2023), 88 FR 51369 (Aug. 3, 2023) (''*July 2023 Exemptive Order*''), *https://www.sec.gov/files/rules/*

Continued

To provide certainty to market participants moving forward given the conflicting interpretations of Rule 613 and the CAT NMS Plan, and to avoid the significant cost burdens that would be imposed by requiring the reporting of the Exempt Activities, the Verbal Quotes Amendment would explicitly and permanently exclude the Exempt Activities from CAT reporting. At a time when the Participants are seeking to reduce CAT-related costs, any potential marginal regulatory benefit of such reporting is substantially outweighed by the significant costs and burdens required to do so, including the billions of dollars in additional associated costs required to implement and maintain the reporting requirements.

As discussed further below, the Verbal Quotes Amendment should be approved because:

- In addition to the substantial direct costs of building and maintaining the CAT itself, CAT Reporters would incur significant implementation and maintenance costs in order to report the Exempt Activities. CAT LLC is focused on identifying changes to the CAT NMS Plan that would reduce overall CAT costs, and requiring the Exempt Activities to be reported directly conflicts with those cost-saving efforts.
- When it originally granted exemptive relief, the Commission recognized that capturing data concerning the Exempt Activities would require significant manual human intervention, but theorized that future technological and business developments, including artificial intelligence, might make reporting the Exempt Activities cost-effective in the future. While recent advancements in artificial intelligence have garnered considerable attention, current technology is not sophisticated enough to reliably, accurately, and consistently capture, parse, analyze, and report these interactions in the current trading environments and workflows given stringent CAT reporting requirements.
- Therefore, the Exempt Activities could only be reported using manual means. Consequently, the costs to Participants and Industry Members of reporting the Exempt Activities to the Central Repository are estimated to be in the billions of dollars per year and would impose additional ongoing operational, technological, and support burdens on Participants and Industry Members.
- In addition to imposing substantial costs, manually reviewing verbal and unstructured electronic activities would be inconsistent and prone to error because human reviewers would be required to determine whether verbal and unstructured electronic activities involve a firm bid or offer, which is a necessarily subjective determination.
- Thus, any investment by Participants and Industry Members to develop the necessary operational capacity, procedures, and technological infrastructure to report the Exempt Activities to the CAT would not be cost-justified because that reporting would be costly, resource-intensive, inconsistent, and prone to error. That is, the costs associated with any such investment would significantly outweigh any potential marginal regulatory benefit that might be achieved if the Exempt Activities were reported to the CAT.
- Requiring reporting of the Exempt Activities to the CAT also would impose added ongoing operational burdens, disrupt trading, and give firms and market makers an incentive to use indications of interest that are not reportable to CAT rather than firm orders or bids or offers. Such a shift in market practice would ultimately be to the detriment of investors.

Each of these issues is discussed further below.

The proposed changes to the CAT NMS Plan to implement the Verbal Quotes Amendment are set forth in *Exhibit A* to this filing.

Requirements Pursuant to Rule 608(a)

A. Description of the Proposed Amendments to the CAT NMS Plan

1. Permanently Exclude the Exempt Activities From CAT Reporting

a. CAT Reporting Requirements

Under Rule 613(c)(7) of Regulation NMS and Sections 6.3(d) and 6.4(d) of the CAT NMS Plan, reportable events are based on, among other things, the receipt, routing, and execution of orders.[12] Rule 613(j)(8) and the CAT NMS Plan provide that ''orders'' include: ''(i) Any order received by a member of a national securities exchange or national securities association from any person; (ii) Any order originated by a member of a national securities exchange or national securities association; or (iii) Any bid or offer.'' A ''bid'' or ''offer'' is defined in Regulation NMS as the bid price or offer price communicated by a member of an exchange or association to any broker-dealer or to any customer, at which it is willing to buy or sell one or more round lots of an NMS security, as principal or agent, *but excluding indications of interest.*[13] In the Rule 613 Adopting Release, the SEC indicates that for purposes of Rule 613 ''[i]ndications of interest are different than orders *because they are not firm offers to trade,* but are essentially invitations to negotiate.'' [14] Because indications of interest and other non-firm indications of a willingness to buy or sell a security are not ''orders'' or ''bids'' or ''offers'' under SEC rules, actions involving them do not constitute reportable events under the CAT NMS Plan.[15] Firm indications of a willingness to buy or sell a security are orders, bids, or offers and have certain reportable events associated with them pursuant to the CAT NMS Plan.

b. Current Commission Exemptive Order

Reporting the Exempt Activities to the Central Repository currently is not required pursuant to the July 2023 Exemptive Order, which will expire on July 31, 2026.[16] Accordingly, the Participants are filing the Verbal Quotes Amendment with the Commission to permanently exclude the Exempt Activities from reporting to the Central Repository. If approved, the Verbal Quotes Amendment would supersede the July 2023 Exemptive Order in its entirety and, therefore, render the reporting provisions required in the July 2023 Exemptive Order moot.

c. Proposed Revisions to the CAT NMS Plan

To provide clarity to market participants, CAT LLC proposes to

exorders/2023/34-98023.pdf. In June 2022, CAT LLC submitted a request for permanent exemptive relief; however, the Commission did not respond to this request. Accordingly, CAT LLC is now submitting this Plan amendment. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (June 3, 2022) (the ''June 2022 Exemption Request''), *https://catnmsplan.com/sites/default/files/2022-06/06.03.2022-CAT-Exemption-Request-Verbal-Floor-and-UpstairsActivity-Final.pdf.*

[12] Rule 613(j)(9) provides that ''[t]he term reportable event shall include, but not be limited to, the original receipt or origination, modification, cancellation, routing, and execution (in whole or in part) of an order, or receipt of a routed order.''

[13] 17 CFR 242.600(b)(8) (emphasis added).

[14] Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722, 45747 (Aug. 1, 2012) (emphasis added) (''Rule 613 Adopting Release'').

[15] *See* Consolidated Audit Trail, Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722, 45747 (Aug. 1, 2012) (''The Commission, however, is not including indications of interest in the definition of 'order' for purposes of the consolidated audit trail because the Commission believes that the utility of the information such data would provide to regulators would not justify the costs of reporting the information.''). *See also* FAQ B3 and B38 regarding indications of interest (''IOI'') and requests for quotes (''RFQ''), available at *www.catnmsplan.com/faq/index.html.*

[16] *See* July 2023 Exemptive Order; November 2020 Exemptive Order.

amend the CAT NMS Plan to state that the Exempt Activities do not fall within the scope of Participant Data or Recorded Industry Member Data that Participants and Industry Members, as applicable, must record and report to the Central Repository. Specifically, CAT LLC proposes to add new Section 6.3(g) to the CAT NMS Plan. New Section 6.3(g) would be entitled ''Verbal Activity, Floor and Upstairs Activity'' and would state the following:

''(g) *Verbal Activity, Floor and Upstairs Activity.* Notwithstanding any other provision of SEC Rule 613 or the CAT NMS Plan, the following categories of data shall not be reportable to the Central Repository under Section 6.3(d):

(i) floor broker verbal announcements of firm orders on an exchange that are otherwise reported as systematized orders;

(ii) market maker verbal announcements of firm quotes on an exchange trading floor;

(iii) telephone discussions between an Industry Member and a client that may involve firm bid and offer communications; and

(iv) unstructured electronic and verbal communications that are not currently captured by Industry Member order management or execution systems (*e.g.,* electronic chats, text messages).''

In addition, CAT LLC proposes to add references to new Section 6.3(g) to Section 6.3(d) and Section 6.4(d)(i) of the CAT NMS Plan. Specifically, CAT LLC proposes to add the parenthetical phrase ''(subject to the exclusions outlined in Section 6.3(g))'' to Section 6.3(d) and Section 6.4(d)(i) of the CAT NMS Plan.

For the avoidance of doubt, the proposed Plan amendment is intended to have an effect similar to permanent incorporation into the CAT NMS Plan of the existing Commission-approved provisions of the July 2023 Exemptive Order. It is not intended to affect activity that is currently reported to CAT or to otherwise modify the categories in the July 2023 Exemptive Order as applied to date. In addition, for the avoidance of doubt, the term ''client'' in romanette (iii) above is intended to include both a non-Industry Member customer of the Industry Member or another Industry Member.

2. Justifications for the Verbal Quotes Amendment

a. Overall CAT Costs Are Unsustainable and Must Be Reduced, Not Increased

Overall CAT costs include not only the direct costs incurred by CAT LLC in building and maintaining the CAT, but also the costs incurred by CAT Reporters in order to comply with CAT reporting requirements. Market participants, FINRA, SEC Commissioners, and members of Congress have all raised significant concerns about the extent of CAT costs.[17] CAT LLC is focused on identifying changes to the CAT NMS Plan that would reduce both the costs imposed on CAT LLC to build and maintain the CAT and the costs imposed on Participants and Industry Members to comply with CAT reporting requirements. Among other initiatives, CAT LLC has recently filed Plan amendments and exemptive requests aimed at reducing direct costs associated with building and maintaining the CAT.[18] The direct costs of building and maintaining the CAT are significant, and, therefore, costs that would be incurred by Participants and Industry Members to comply with CAT reporting requirements should be carefully controlled, especially in the absence of a fully implemented funding model.[19] Here, the costs that would be incurred by Participants and Industry Members, collectively, related to reporting data concerning the Exempt Activities are estimated to be in the billions in the aggregate. Requiring CAT Reporters to incur these costs over the next two years in order to begin reporting the Exempt Activities, along with the additional costs that would be required to maintain that reporting, directly conflicts with CAT LLC's ongoing cost-saving efforts. Moreover, as described in more detail below, any potential marginal utility of the information such data would provide to regulators would not justify the added costs and burdens of reporting the information.

b. It Remains Technologically Infeasible to Reliably, Accurately, and Consistently Collect Data Concerning the Exempt Activities for CAT Reporting Without Human Intervention

It would be unreasonable to impose a technologically infeasible requirement on CAT Reporters. Without human intervention, it remains technologically infeasible to reliably, accurately, and consistently collect and report data concerning the Exempt Activities, which include verbal floor activity and unstructured verbal and electronic upstairs activity. The Commission has recognized that manually capturing and reporting verbal and electronic activity through human intervention would be impracticable and not cost-effective.[20] Accordingly, the Commission's original November 2020 Exemptive Order was premised on the Commission's belief that future technological breakthroughs in artificial intelligence would make collecting information concerning the Exempt Activities more feasible by the time the temporary exemptive relief expires. These developments have not materialized in a way that would allow market participants to effectively and reliably capture data associated with the Exempt Activities for reporting to the Central Repository without human intervention. For example, FIF has provided the Commission with numerous examples of the challenges associated with verbal and unstructured electronic communications to illustrate why it is not feasible for Industry Members to automate the reporting of the Exempt Activities to the CAT.[21]

To be sure, many market participants are exploring how recent advancements in artificial intelligence, including machine learning, natural language processing, and voice recognition technology, may be used in various business functions. Nevertheless, current artificial intelligence technology is not sophisticated enough to reliably, accurately, and consistently capture, parse, analyze, and report these interactions in the current trading environments and workflows given stringent CAT reporting requirements. A number of Industry Members have conducted internal analyses on this question and concluded that there is

[17] *See, e.g.,* Letter from Rep. Bill Huizenga, Chairman, House Subcommittee on Oversight and Investigations, and Rep. Ann Wagner, Chairman, House Subcommittee on Capital Markets, to Deborah J. Jeffrey, Inspector General, Commission (Dec. 11, 2023) (''Huizenga-Wagner Letter''); Letter from Joseph Corcoran, Managing Director, Associate General Counsel, SIFMA, Ellen Greene, Managing Director, Equities & Options Market Structure, SIFMA, Howard Meyerson, Managing Director, Financial Information Forum, to Commission (July 31, 2023); Hester Peirce, *Who's Paying?: Statement on the CAT's Funding Model* (Sept. 6, 2023) *https://www.sec.gov/news/statement/peirce-statement-cat-funding-090623* (''Peirce Dissent''); Robert Cook, President and CEO, FINRA, Testimony Before the House Financial Services Subcommittee on Capital Markets, *Examining the Agenda of Regulators, SROs (Self-Regulatory Organizations), and Standards-Setters for Accounting, Auditing* (Dec. 12, 2023) *https://plus.cq.com/doc/congressional transcripts-7899923?3.*

[18] *See, e.g.,* Exchange Act Release No. 99938 (Apr. 10, 2024), 89 FR 26983 (Apr. 16, 2024) (proposing cost savings amendments expected to result in approximately $23 million in annual cost savings in the first year with limited impact on the regulatory function of the CAT).

[19] Although the Commission recently has approved a funding model, it has determined to temporarily suspend the Participants' fee filings to recover any historical costs incurred prior to January 1, 2022. CAT reporting should not be expanded to introduce new CAT costs absent a fully implemented funding model. Exchange Act Release No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023), *https://www.sec.gov/files/rules/sro/nms/2023/34-98290.pdf.*

[20] November 2020 Exemptive Order at 73547.

[21] *See* December 2022 FIF Letter at 5, 14–18. While the December 2022 FIF Letter focuses on these challenges in the context of upstairs activities, these same challenges exist for Industry Members and Participants on exchange trading floors.

currently no artificial intelligence software or algorithm with a feasible architecture to accurately capture and report the Exempt Activities to the CAT in an automated manner.[22] In particular, those Industry Members provided detailed explanations regarding why natural language processing is not suitable for this purpose.[23]

Notably, it has been four years since the Commission posited that technological and business developments could advance to such an extent that automated processes could be used to capture and report the Exempt Activities to the CAT in an efficient and reliable manner. Given the amount of time that has passed since the Commission first contemplated those developments and the amount of further advancement that is still required, it is exceedingly unlikely that the necessary developments will materialize in the next two years. Furthermore, even if those developments were to materialize, the potential regulatory benefit of reporting the Exempt Activities to the CAT is limited given the scope of data related to the Exempt Activities that it already reported, as outlined further in Section A.2.d below.[24]

In short, because the technological and business developments anticipated in the current temporary exemptive relief have not materialized in a manner that lends itself to the efficient and accurate reporting of the Exempt Activities, the only way for Participants and Industry Members to report data associated with the Exempt Activities to the CAT would be to manually capture that data through human intervention, which the Commission has recognized would not be practical or cost-effective, as discussed in more detail below. Again, any potential marginal utility of the information such data would provide to regulators would not justify the added costs and burdens of reporting the information.

c. Because Reporting the Exempt Activities Would Require Substantial Human Intervention, the Costs of Reporting the Exempt Activities to the Central Repository Would Be Significant and Vastly Outweigh Any Potential Marginal Regulatory Benefit

Importantly, the costs associated with reporting the Exempt Activities would include more than just the direct costs to CAT LLC associated with CAT reporting. Rather, they would also include substantial costs incurred by Participants and Industry Members in addition to the costs incurred by CAT LLC.[25] For example, because the Exempt Activities have never been reportable to an audit trail, Participants and Industry Members would need to establish, implement, and maintain procedures to collect and record data associated with the Exempt Activities in the Central Repository. These costs would be especially significant as applied to the Exempt Activities because there is currently no effective way for Participants and Industry Members to collect the required data to be reported to the Central Repository in a cost-justified or consistent manner.[26]

As discussed in greater detail above, the technological and business developments on which the current temporary exemptive relief is based, including developments in artificial intelligence, have not materialized. Therefore, the only way for the Participants and Industry Members to report the Exempt Activities to the CAT would be to manually capture these events by requiring a human being to listen to every verbal interaction of every floor broker, market maker, or upstairs trader either live or from tape, and/or to sift through electronic communications to determine if and precisely when a quote was given and whether it was firm. This manual review would be impracticable and costly because it would require Industry Members that are floor brokers and floor-based market makers, many of which are small firms, to hire additional staff and develop new technology resources to capture and analyze data associated with the Exempt Activities.[27] The Participants estimate that the discussions of each floor broker and floor-based market maker would need to be tracked on a one-to-one basis by a full-time equivalent (''FTE'') responsible for parsing and interpreting when a CAT-reportable event has occurred.[28] It would not be practicable for floor brokers or floor-based market makers to capture their own verbal interactions in real time without severely impacting existing workflows and those floor brokers' and floor-based market makers' ability to participate in fast-moving markets because doing so would require them to pause and turn their attention away from the market to record their verbalized quote.[29] With respect to upstairs activities, similar manual intervention would be required to consistently capture, parse, analyze, and report data concerning the Exempt Activities.[30] Any such manual reporting processes would be inconsistent and prone to error because human reviewers would be required to determine whether verbal and unstructured electronic activities involve a firm bid or offer, which is a necessarily subjective determination. Indeed, the Commission has previously acknowledged that ''the reporting of such orders and quotes [*i.e.,* the Exempt Activities] involves complexity and/or costs, especially because capture of this information may require significant manual intervention.'' [31]

The Participants previously estimated the costs associated with developing the operational and technological infrastructure necessary for Participants to report the Exempt Activities to the CAT. In particular, $64.35 million to $112.86 million per year would be required to designate an FTE for each floor broker and floor-based market maker with an additional one-time cost of $20 million to $30 million on top of direct personnel costs to build the additional space required to support the increased number of personnel performing the manual reviews because the relevant exchanges do not currently have room for the additional staff to be present on the exchange floor.[32] Similarly, Industry Members would be required to hire additional staff and to update their technology systems to manually capture and report the Exempt Activities to the CAT, which Industry Members estimate would cost the industry a total of more than $4.4 billion per year.[33] These estimated costs are substantial, and there is no reason to believe that they would have decreased

[22] December 2022 FIF Letter at 5.

[23] December 2022 FIF Letter at 19.

[24] Therefore, even if the contemplated technological and business developments permitting automated reporting of the Exempt Activities did potentially occur someday, they would still need to be evaluated from a cost-benefit perspective before requiring the Exempt Activities to be reported to the CAT.

[25] *See* Peirce Dissent; Huizenga-Wagner Letter.

[26] In addition to financial costs, reporting the Exempt Activities to CAT would impose significant ongoing and resource-intensive operational, technological, and support burdens on Participants and Industry Members.

[27] Letter from Mike Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission, Appendix A at 11 (June 3, 2022), *https://www.catnmsplan.com/sites/default/files/2022-06/06.03.2022-CAT-Exemption-Request-Verbal-Floor-and-Upstairs-Activity-Final.pdf* (''June 2022 Exemption Request'').

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] November 2020 Exemptive Order at 73547.

[32] *See* June 2022 Exemption Request at Appendix A. The Participants estimate that each FTE would cost between $130,000 and $228,000 annually, inclusive of compensation and benefits. On the relevant NYSE, Cboe, and Nasdaq exchanges alone, there are approximately 495 floor brokers and designated market makers requiring an FTE to interpret their communications.

[33] December 2022 FIF Letter at 6, 20–21.

since they were previously calculated.[34] These costs may very well be passed through to investors. Furthermore, the manual nature of the reviews would also make it exceedingly likely that a CAT Reporter will miss the requirement to report CAT data by T+1 at 8:00 a.m. ET.

Requiring reporting of the Exempt Activities to the CAT also would disrupt trading and reduce the benefits of floor trading because of the added burdens it would impose on open outcry bidding and offering, which would ultimately be to the detriment of investors. The difficulty in capturing and reporting verbal and unstructured electronic activities will give firms and markets an incentive to use indications of interest that are not reportable to CAT rather than firm orders or bids or offers. The CAT was intended to enhance audit trails for regulators, not impact how Industry Members source market liquidity and trade.

Because current estimates of the costs that Participants and Industry Members would need to incur to report the Exempt Activities to the Central Repository are substantial, vastly outweigh any limited potential regulatory benefit (*i.e.,* because reporting would be inconsistent and prone to error) and would disrupt trading and reduce the use of firm quotations and orders, the CAT NMS Plan should be amended to clarify that the Exempt Activities are excluded from CAT reporting. To the extent the Commission would seek to impose such an obligation in the future, it should be accomplished through formal rulemaking, which should include a cost-benefit analysis of any potential marginal utility of the information such data would provide to regulators that would justify the added costs and burdens of reporting the information.

d. Including the Exempt Activities in the Central Repository Would Provide Limited Added Benefit for Regulatory and Surveillance Purposes

The Participants do not believe that reporting the Exempt Activities to the CAT would provide enough value from a regulatory or surveillance perspective to outweigh their substantial costs. On all exchanges with floor trading, every order must be systematized upon receipt by the floor broker on the floor of the exchange and is reportable to the CAT. An order is ''systematized'' when (A) the order is sent electronically to the floor broker's system at the exchange; or (B) the order is manually systematized by the floor broker upon receipt outside of the floor broker's system and prior to representation in the floor trading crowd.[35] To the extent a floor broker is not holding a systematized order, the floor broker is not eligible to represent any firm bid or offer, or to request firm quotes from in-crowd market participants on the floor of an exchange.[36] Accordingly, all firm bids or offers represented by a floor broker must be associated with orders that have already been systematized. Conversely, any activity by the floor broker prior to systematization cannot be related to an order, bid, or offer pursuant to the CAT NMS Plan. Because the Participants require that any firm verbal interest expressed by a floor broker must be related to a CAT reportable systematized order, and any resulting trade must be reported to CAT, all verbal interest expressed by a floor broker that may be a CAT Reportable Event is already reported to CAT. Further, any cancellation or change to an order transmitted to an exchange floor broker must occur within the systematized order record. In short, every order verbalized on an exchange floor by a floor broker has already been systematized, and that systematization is already reportable to the CAT. Likewise, with respect to upstairs activity, manual orders (including any orders following from indications of interest) are already reportable to the CAT. And trades, whether occurring on an exchange floor or off-floor, are also already reportable to the CAT. The Reportable Events that are currently captured for exchange floor transactions are adequate to achieve CAT's regulatory purposes. The additional information that would be associated with the Exempt Activities does not need to be captured to allow for effective surveillance and regulation of exchange floor activity.

Similarly, with respect to bilateral negotiations in upstairs activity, such as between customers and broker-dealers, or between two broker-dealers, the Reportable Events that are currently captured when the broker either creates an order when dealing with a customer, or accepts an order from another broker-dealer, and when the trade execution occurs are adequate to achieve CAT's regulatory purposes. In these ''event types,'' all necessary information required to fulfill CAT reporting requirements—customer, broker-dealer, time stamps, FDID, etc.—are captured. The additional information that would be associated with the Exempt Activities does not need to be captured to allow for effective surveillance of upstairs activity.

The ultimate regulatory value-add of expanding the existing CAT reporting to include the Exempt Activities is minimal given the scope of the data associated with the Exempt Activities that is already reported. Moreover, because they are not widely disseminated, communications related to the Exempt Activities do not lend themselves to the types of market manipulation considered in the adoption of Rule 613.[37] Any small incremental value added for regulatory purposes would be significantly outweighed by costs imposed on Industry Members, their customers, and the Participants, as well as the disruption to trading on Participant trading floors.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

The Participants propose to implement the proposal upon approval of the proposed amendment to the CAT NMS Plan.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

CAT LLC does not believe that the proposed amendment would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed amendment would continue the status quo under the current temporary exemptive relief related to the Exempt Activities. Therefore, the proposed amendment does not introduce any new competition concerns. Indeed, CAT LLC believes that the proposed amendment will have a positive impact on competition, efficiency, and capital formation. The

[34] *See* June 2022 Exemption Request at Appendix A; December 2022 FIF Letter at 6, 20–21. If a new rulemaking were proposed to make the Exempt Activities reportable to CAT, then the Participants would update these cost estimates as part of the detailed cost-benefit analysis that would be required in connection with considering a new reporting requirement.

[35] *See, e.g.,* Consolidated Options Audit Trail System (''COATS'') requirements, such as Cboe Rule 5.7(f). NYSE options exchanges require that particular elements of an order be systematized so that the exchange may fulfill requirements for COATS reporting. *See* NYSE Arca Rule 6.67–O and NYSE American Rule 955NY.

[36] *See* NYSE Rule 7.35B, NYSE Arca Rule 6.67–O, NYSE American Rule 955NY and Cboe Rule 5.91(a)(4).

[37] *See, e.g.,* Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (Aug. 1, 2012) (explaining that the CAT would be useful in investigating frontrunning, spoofing and layering in today's high-speed electronic markets).

proposed amendment will provide clarity to market participants about their regulatory obligations and result in substantial savings in costs and cost avoidance opportunities while continuing to provide minimal impact on the regulatory use of CAT Data. Such substantial savings and cost avoidance opportunities would inure to the benefit of all participants in the markets for NMS Securities and OTC Equity Securities, including Participants, Industry Members, and most importantly, the investors. Furthermore, CAT LLC believes that any action to require the reporting of the Exempt Activities to CAT would impose a significant burden on competition that would be unnecessary and not appropriate for the reasons cited herein. To the extent that the Commission would seek to impose such an obligation in the future, it should be accomplished through formal rulemaking that includes a cost-benefit analysis and an analysis of the impact on competition.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in Plan

Not applicable.

G. Approval by Plan Sponsors in Accordance With Plan

Section 12.3 of the CAT NMS Plan states that, subject to certain exceptions, the CAT NMS Plan may be amended from time to time only by a written amendment, authorized by the affirmative vote of not less than two-thirds of all of the Participants, that has been approved by the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act or has otherwise become effective under Rule 608 of Regulation NMS under the Exchange Act. In addition, the proposed amendment was discussed during Operating Committee meetings. The Participants, by a vote of the Operating Committee taken on July 2, 2024, have authorized the filing of this proposed amendment with the SEC in accordance with the CAT NMS Plan.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

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EXHIBIT A

Proposed Revisions to the CAT NMS Plan

Additions *italicized;* deletions [bracketed]

* * * * *

ARTICLE VI

FUNCTIONS AND ACTIVITIES OF CAT SYSTEM

* * * * *

Section 6.3. Data Recording and Reporting by Participants.

* * * * *

(d) *Participant Data.* Subject to Section 6.3(c), and Appendix D, Reporting and Linkage Requirements, and in accordance with the Technical Specifications, each Participant shall record and electronically report to the Central Repository the following details for each order and each Reportable Event *(subject to the exclusions outlined in Section 6.3(g)),* as applicable (''Participant Data''):

* * * * *

(g) Verbal Activity, Floor and Upstairs Activity. Notwithstanding any other provision of SEC Rule 613 or the CAT NMS Plan, the following categories of data shall not be reportable to the Central Repository under Section 6.3(d):

(i) floor broker verbal announcements of firm orders on an exchange that are otherwise reported as systematized orders;

(ii) market maker verbal announcements of firm quotes on an exchange trading floor;

(iii) telephone discussions between an Industry Member and a client that may involve firm bid and offer communications; and

(iv) unstructured electronic and verbal communications that are not currently captured by Industry Member order management or execution systems (*e.g.,* electronic chats, text messages).

* * * * *

Section 6.4. Data Recording and Reporting by Industry Members.

* * * * *

(d) *Required Industry Member Data.*

(i) Subject to Section 6.4(c) and Section 6.4(d)(iii) with respect to Options Market Makers, and consistent with Appendix D, Reporting and Linkage Requirements, and the Technical Specifications, each Participant shall, through its Compliance Rule, require its Industry Members to record and electronically report to the Central Repository for each order and each Reportable Event the information referred to in Section 6.3(d) *(subject to the exclusions outlined in Section 6.3(g)),* as applicable (''Recorded Industry Member Data'').

* * * * *

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange 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 4–698 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 4–698. 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 amendment that are filed with the Commission, and all written communications relating to the proposed amendment 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 offices of the Participants. 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 4–698 and should be submitted on or before September 10, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–18565 Filed 8–19–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100726; File No. SR–NYSEAMER–2024–10]

Self-Regulatory Organizations; NYSE American LLC; Notice of Withdrawal of Proposed Rule Change To Amend Rule 915 To Permit the Listing and Trading of Options on the Bitwise Bitcoin ETF, the Grayscale Bitcoin Trust, and Any Trust That Holds Bitcoin

August 14, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] NYSE American LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend Exchange Rule 915 to permit the listing and trading of options on the Bitwise Bitcoin ETF, the Grayscale Bitcoin Trust (BTC), and any trust that holds bitcoin (''Proposal'').

On February 29, 2024, the Proposal was published for comment in the **Federal Register**.[3] On April 8, 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 Act[6] 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, the Exchange withdrew the Proposal (SR–NYSEAMER–2024–10).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–18558 Filed 8–19–24; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2024–0027]

Notice of Senior Executive Service Performance Review Board Membership

AGENCY: Social Security Administration.

ACTION: Notice of Senior Executive Service Performance Review Board Membership.

The following persons will serve on the Performance Review Board which oversees the evaluation of performance appraisals of Senior Executive Service members of the Social Security Administration:

Kristen Medley-Proctor, Chair
Sean Balser *
Jeffrey Buckner
Daniel Callahan
Djimy Chapron
Doris Diaz
Christopher Harris
Tanya Lawrence *
Jatin (Jim) Parikh
Susan Wilschke *
Deon Wilson *

* New Member

Authority: Title 5, U.S. Code, 4314 (c)(4), requires that the appointment of Performance Review Board members be published in the **Federal Register** before service on said Board begins.

Darlynda K. Bogle,

Deputy Commissioner for Human Resources.

[FR Doc. 2024–18658 Filed 8–19–24; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 12497]

Nominations for Coordinating Lead Authors, Lead Authors, or Review Editors on the Special Report on Climate Change and Cities To Be Undertaken by the Intergovernmental Panel on Climate Change During the Seventh Assessment Report (AR7) Cycle

The United States Department of State, in cooperation with the United States Global Change Research Program, seeks nominations for U.S. scientists with requisite expertise to serve as Coordinating Lead Authors, Lead Authors, or Review Editors on the Special Report on Climate Change and Cities to be undertaken by the Intergovernmental Panel on Climate Change (IPCC) during the Seventh Assessment Report (AR7) cycle. The outline for the report was adopted at the 61th session of the IPCC Plenary held July 27–Aug. 2, 2024.

Nominations may be submitted at *https://contribute.globalchange.gov/*. This is an Open Call. All registered users can nominate U.S. citizens and permanent lawful residents to be considered by the IPCC Scientific Steering Committee (SSC). The call for nominations will close on Monday, September 16, 2024, and a nominations package transmitted on behalf of the U.S. IPCC Focal Point on September 20th. The SSC will complete its work and issue appointment memos in late December 2024.

The United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) established the IPCC in 1988. In accordance with its mandate and as reaffirmed in various decisions by the Panel, the major activity of the IPCC is to prepare comprehensive and up-to-date assessments of policy-relevant scientific, technical, and socio-economic information for understanding the scientific basis of climate change, potential impacts, and options for mitigation and adaptation.

This notice will be published in the **Federal Register**.

Hagen D. Maroney,

Acting Director, Office of Global Change, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

[FR Doc. 2024–18520 Filed 8–19–24; 8:45 am]

BILLING CODE 4710–09–P

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[38] 17 CFR 200.30–3(a)(85).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 99593 (Feb. 23, 2024), 89 FR 14911.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 99921 (Apr. 8, 2024), 89 FR 25908 (Apr. 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-nyseamer-2024-10/srnyseamer202410.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).

DEPARTMENT OF STATE

[Public Notice:12496]

Notice of Public Meeting in Preparation for International Maritime Organization Tenth Session of the Sub-Committee on Carriage of Cargoes and Containers (CCC) Meeting

The Department of State will conduct a public meeting at 12:00 p.m. on Wednesday, September 04, 2024, both in-person at Coast Guard Headquarters in Washington, DC, and via teleconference. The primary purpose of the meeting is to prepare for the 10th session of the International Maritime Organization's (IMO) Sub-committee on Carriage of Cargoes and Containers (CCC) to be held at IMO Headquarters in London, United Kingdom from Monday, September 16 to Friday, September 20, 2024.

Members of the public may participate up to the capacity of the teleconference phone line, which can handle 500 participants or up to the seating capacity of the room if attending in person. The meeting location will be the United States Coast Guard Headquarters, and the teleconference line will be provided to those who RSVP. To RSVP, participants should contact the meeting coordinator, LT Joseph Kolb, by email at *Joseph.B.Kolb2@uscg.mil.* LT Kolb will provide access information for in-person and virtual attendance.

The agenda items to be considered at CCC 10 include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Amendments to the IGF Code and development of guidelines for alternative fuels and related technologies (2.3)
—Review of the IGC Code (1.17)
—Amendments to the IMSBC Code and supplements (7.13)
—Amendments to the IMDG Code and supplements (7.10)
—Revision of the Revised guidelines for the preparation of the Cargo Securing Manual (MSC.1/Circ.1353/Rev.2) to include a harmonized performance standard for lashing software to permit lashing software as a supplement to the Cargo Securing Manual (7.40)
—Revision of the Revised recommendations for entering enclosed spaces aboard ships (resolution A.1050(27)) (6.23)
—Consideration of reports of incidents involving dangerous goods or marine pollutants in packaged form on board ships or in port areas (7.28)
—Unified interpretation of provisions of IMO safety, security, and environment-related conventions (7.1)
—Development of measures to prevent the loss of containers at sea (7.20)
—Biennial status report and provisional agenda for CCC 11
—Election of the Chair and Vice-Chair for 2025
—Revision of the Interim recommendations for carriage of liquefied hydrogen in bulk (2.25)
—Any other business
—Report to the Committees

Please note: The IMO may, on short notice, adjust the CCC 10 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate should contact the meeting coordinator, LT Joseph Kolb, by email at *Joseph.B.Kolb2@uscg.mil,* or in writing at United States Coast Guard, Hazardous Materials Division (CG–ENG–5), ATTN: LT Joseph Kolb, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, by August 28, 2024.

Please note that, due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth's. This building is accessible by taxi, public transportation, and privately owned conveyance (upon request). Additionally, members of the public needing reasonable accommodation should advise the meeting coordinator not later than August 28, 2024. Requests made after that date will be considered but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Leslie W. Hunt,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2024–18569 Filed 8–19–24; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36575]

Townline Rail Terminal, LLC—Construction and Operation Exemption—In Suffolk County, N.Y.

By petition filed November 17, 2022, Townline Rail Terminal, LLC (Townline), an affiliate of CarlsonCorp, Inc. (CarlsonCorp), seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct and operate a new rail line in Smithtown, Suffolk County, N.Y. (the Line). (Townline Pet. 2, Nov. 17, 2022.) The Supervisor of the Town of Smithtown, N.Y. (Smithtown), filed a letter in support of Townline's petition. The Board also received numerous filings from community members and associations of community members opposing the petition.

On January 12, 2023, the Board instituted a proceeding under 49 U.S.C. 10502. The Board's Office of Environmental Analysis (OEA) issued a Draft Environmental Assessment (Draft EA) on January 5, 2024, examining the potential environmental and historic impacts of Townline's project and requesting public comments, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4370m(11), and related environmental laws, including Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108. After considering the comments received in response to the Draft EA, OEA issued a Final Environmental Assessment (Final EA) on June 7, 2024. Based on its analysis, OEA recommended environmental conditions to avoid, minimize, or mitigate the potential environmental impacts of the proposed construction and operation. OEA concluded that, with the mitigation recommended in the Final EA, the project would have no or negligible adverse environmental impacts.

After considering the entire record, including the transportation merits and environmental issues, the Board will grant Townline's petition for exemption, subject to the recommended environmental mitigation measures in the Final EA.

Background

According to Townline, the Line would extend approximately 5,000 feet on a portion of CarlsonCorp's industrial property [1] and would run parallel to the Long Island Railroad (LIRR) Port Jefferson Line. (Townline Pet. 2, Nov. 17, 2022.) Townline states that the New York & Atlantic Railway (NYAR) operates on the Port Jefferson Line and has entered into an agreement with CarlsonCorp on behalf of LIRR to install a new switch that would connect the Line to the Port Jefferson Line. (*Id.* at 2–3.) Townline also states that it would interchange with NYAR and anticipates

[1] CarlsonCorp currently operates a state-permitted waste transfer facility on its property. (Townline Pet. 3, Nov. 17, 2022.)

that it would operate one round-trip train per day, five days per week. (*Id.* at 5.)

According to Townline, the purpose of the project is to provide common carrier rail service to a planned truck-rail transloading facility, which Townline states would be subject to state and local regulation.[2] (*Id.* at 3.) CarlsonCorp would independently construct the transloading facility to handle the transportation of construction and demolition debris and incinerator ash from Long Island. (*Id.* at 3–4.) Townline explains that rail service to the planned facility is needed because the Brookhaven Landfill, the last remaining public landfill on Long Island to accept construction and demolition debris, is scheduled to close, and construction of new landfills to accept ash and construction and demolition debris is nearly prohibited under New York law. (*Id.* at 3.) Townline adds that the Line also could serve other local shippers, including Covanta Energy, Kings Park Ready Mix Corp, Kings Park Materials, and Pelkowski Precast. (*Id.* at 4.)

On November 8, 2022, Smithtown filed a letter stating that it supports Townline's petition in light of the need to find alternative means for waste disposal given the impending closure of the Brookhaven Landfill. The Board also received numerous filings from community members and associations of community members in opposition to the Line and the planned facility.[3] (*See, e.g.,* Townline Ass'n Comment, Feb. 1, 2023; Commack Cmty. Ass'n Comment, Feb. 21, 2023; Fort Salonga Ass'n Comment, Feb. 21, 2023; Russo Opp'n Statement, Feb. 27, 2023; Townline Ass'n Comment, Sept. 11, 2023.)

On April 4, 2023, Townline Association, Inc., an association of local residents and property owners, moved to dismiss the petition for exemption, arguing that the Board lacks jurisdiction over the project, or in the alternative, that the project is not appropriate for the exemption process. By decision served November 15, 2023, the Board denied that motion.

On July 18, 2024, Townline Association filed a petition with the Board seeking a Supplemental Environmental Assessment (Supplemental EA) or an Environmental Impact Statement (EIS), requesting that OEA ''take a second hard look'' at potential impacts of the project on groundwater. (Townline Ass'n Pet. 1, 5, July 18, 2024.) Townline filed a reply on July 26, 2024, arguing, among other things, that the petition should be rejected because it fails to present any ''significant new information.'' (Townline Reply 15, July 26, 2024).

Discussion

Rail Transportation Analysis. The construction of new rail lines requires prior Board authorization through issuance of a certificate under 49 U.S.C. 10901 or, as requested here, through an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901. Section 10901(c) directs the Board to authorize rail line construction proposals unless it finds the proposal ''inconsistent with the public convenience and necessity.'' *See Alaska R.R.—Constr. & Operation Exemption—a Rail Line Extension to Port MacKenzie, Alaska,* FD 35095, slip op. at 5 (STB served Nov. 21, 2011), *aff'd sub nom. Alaska Survival* v. *STB,* 705 F.3d 1073 (9th Cir. 2013). Under 49 U.S.C. 10502(a), the Board shall, to the maximum extent consistent with U.S. Code Title 49, subtitle IV, part A, exempt a transaction from the detailed application procedures of 49 U.S.C. 10901 when it finds that: (1) those procedures are not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101; and (2) either (a) the proposal is of limited scope, or (b) the full application procedures are not necessary to protect shippers from an abuse of market power.

Based on the record in this proceeding, the Board concludes that the proposed construction and operation qualifies for an exemption from the 49 U.S.C. 10901 prior approval requirements. The requested exemption would connect CarlsonCorp's planned transloading facility to the LIRR's Port Jefferson Line, thus creating a rail option for transporting incinerator ash and construction and demolition debris from the planned facility off of Long Island and filling a need raised by the impending closure of the Brookhaven landfill. Providing such an option would advance ''the development and continuation of a sound rail transportation system with effective competition . . . with other modes, to meet the needs of the public,'' 49 U.S.C. 10101(4), and help ''ensure effective competition and coordination between rail carriers and other modes,'' 49 U.S.C. 10101(5). Townline likewise states that it sees potential to provide rail service for Covanta Energy, a neighboring waste-to-energy facility that currently ships approximately 12,000 truckloads of incinerator ash per year to the Brookhaven Landfill. (Townline Pet. 3–4, Nov. 17, 2022.) Townline explains that it could provide a rail option for Covanta Energy to find new disposal options off of Long Island when the Brookhaven Landfill closes, and a rail option for certain other shippers in the vicinity of the Line, which currently use trucks to receive and ship commodities such as cement powder, sand, gravel, concrete, and aggregates. (*Id.* at 4.) By supporting these truck-to-rail diversions, the Line would not only advance the policies at 49 U.S.C. 10101(4) and (5), but also increase overall energy efficiency, thereby encouraging and promoting energy conservation in furtherance of 49 U.S.C. 10101(14).

Moreover, by minimizing the time and administrative expense associated with obtaining Board approval under the Board's formal construction application procedures, the requested exemption would provide for expeditious regulatory decisions, 49 U.S.C. 10101(2); reduce regulatory barriers to enter the industry, 49 U.S.C. 10101(7); and provide for the expeditious handling and resolution of proceedings, 49 U.S.C. 10101(15). Other aspects of the RTP would not be adversely affected. Further, no issues about the Line's current or future financial viability have been raised.

Regulation of the proposed construction and operation is not necessary to protect shippers from an abuse of market power. The construction and operation of the Line would enhance competition by providing a new rail option for CarlsonCorp, Covanta Energy, and other local shippers, including Kings Park

[2] By decision served February 23, 2024, the Board denied a petition for declaratory order filed by Smithtown regarding the transloading facility because the case law addressing the extent of the Board's jurisdiction over transloading activities is well-established. *Town of Smithtown—Pet. for Declaratory Order,* FD 36575 (Sub-No. 1), slip op. at 3 (STB served Feb. 23, 2024). The Board also declined Smithtown's request that the Board define in the abstract what may constitute a reasonable request for transportation of hazardous materials by Townline under 49 U.S.C. 11101(a). *Id.*

[3] These community comments express concerns about potential environmental impacts and explain that the Line and the planned transload facility would be located in a residential area and near schools. (*E.g.,* Townline Ass'n Comment, June 21, 2023.) Residents also express concerns about impacts on property values, (*see, e.g.,* Townline Ass'n Comment 12, Apr. 10, 2023), traffic congestion, (*e.g.,* Townline Ass'n Comment 5, Apr. 17, 2023), and other issues, such as possible effects of the project on air, light, sound, and water, and what some commenters describe as the existing environmental burden on the area, (*e.g.,* Townline Ass'n Comment 14, Mar. 6, 2023; Townline Ass'n Comment 5–7, Mar. 13, 2023). As discussed below, (*see infra* pp. 4–6), OEA has evaluated the potential environmental and historic impacts of the project, addressing concerns such as those raised by the community and recommending environmental mitigation measures, as appropriate.

Ready Mix Corp, Kings Park Materials, and Pelkowski Precast.[4]

For these reasons, the Board concludes that the evidence on the transportation-related aspects of this case demonstrates that the proposed construction and operation of the Line qualifies for an exemption from the prior approval requirements of 49 U.S.C. 10901.

Environmental Analysis. NEPA requires federal agencies to examine the environmental effects of proposed federal actions and to inform the public concerning those effects. *Balt. Gas & Elec. Co.* v. *Nat. Res. Def. Council,* 462 U.S. 87, 97 (1983). Under NEPA and related environmental laws, the Board must consider significant potential beneficial and adverse environmental impacts in deciding whether to authorize a railroad construction project as proposed, deny the proposal, or grant it with conditions (including environmental mitigation conditions). *Lone Star R.R.—Track Constr. & Operation Exemption—in Howard Cnty., Tex.,* FD 35874, slip op at 4 (STB served Mar. 3, 2016). While NEPA prescribes the process that must be followed, it does not mandate a particular result. *Robertson* v. *Methow Valley Citizens Council,* 490 U.S. 332, 350 (1989). Once the adverse environmental effects have been adequately identified and evaluated, an agency may conclude that ''other values outweigh the environmental costs.'' *Id.*

The Environmental and Historic Review Process. On January 5, 2024, OEA issued for public review and comment a Draft EA addressing in detail the potential environmental impacts of the proposed construction and operation of the Line.[5] The Draft EA analyzed a number of environmental issues, including transportation, land use and zoning, energy, air quality and climate change, noise and vibration, biological resources, water resources, cultural resources, hazardous materials release sites, environmental justice, and cumulative and other impacts. OEA recommended preliminary mitigation based on the results of its environmental analysis and agency consultation. (Draft EA 20, 60.) OEA explained that because the 5,000-foot Line would be built in an existing industrial area, there would be fewer environmental and historic impacts than would be the case with construction of an entirely new right-of-way.[6] (*Id.* at i, iii.) It acknowledged that Long Island is a sole-source aquifer region, with groundwater supplying almost all drinking water, but found that the proposed project would have no impacts on groundwater. (*Id.* at 48–49.) OEA concluded that the proposed construction and operation would have negligible impacts to all resource areas evaluated except biological resources, and that impacts to biological resources could be appropriately minimized with the mitigation recommended in the Draft EA.[7] (*Id.* at iii.) The mitigation recommended by OEA in the Draft EA included 11 voluntary mitigation conditions proposed by Townline and two additional mitigation measures developed by OEA to address potential environmental impacts of the proposed project related to biological resources and hazardous materials release sites. (*Id.* at 60, 63–64.)

OEA received a total of 105 comments on the Draft EA from individuals, citizen associations, and agencies. (Final EA 12; *id.,* App. G at G–31 to G–35 (Table 2).) Of those comments, OEA determined that 41 were substantive enough to warrant a response in the Final EA. (Final EA 12.) In the Final EA, served June 7, 2024, OEA responded to the substantive comments, individually or in groups, explaining its analyses on the issues raised in the comments. (Final EA, App. G at G–1.) Where appropriate, OEA clarified and corrected information in the Draft EA. (*Id.*) In addition, for biological resources, after considering the public comments on the Draft EA, OEA added one new mitigation measure regarding lighting. (Final EA 62, 64; *see also supra* note 8.) OEA concluded that, with the mitigation recommended in the Final EA, the proposed construction and operation would have no or negligible adverse impacts on all resources evaluated. (Final EA iii.)

The Board's Analysis of the Environmental Issues. The Board is satisfied that OEA has taken the requisite hard look at the potential environmental impacts associated with the proposed construction and operation of the Line. The Draft EA and Final EA adequately identify and assess the environmental impacts discovered during the course of the environmental review and include appropriate environmental mitigation to avoid or minimize potential environmental impacts. Moreover, Townline Association's July 2024 petition does not show that a Supplemental EA is required,[8] as it merely reiterates concerns Townline Association previously raised during the environmental review regarding potential groundwater impacts and prior sand mining on CarlsonCorp's property. These issues were specifically addressed in the Final EA. (Final EA, App. G at G–23 to G–24, G–30.) Accordingly, the Board will deny Townline Association's July 2024 petition. The Board further finds that OEA properly determined that, with the recommended environmental mitigation measures, the proposed project will not have potentially significant environmental impacts, and that preparation of an EIS is unnecessary.[9] Accordingly, the Board adopts the analysis and conclusions made in the Draft EA (as modified by the Final EA) and Final EA, including the final recommended mitigation measures,

[4] Because regulation of the proposed construction and operation is not needed to protect shippers from the abuse of market power, the Board need not determine whether the transaction is limited in scope. 49 U.S.C. 10502(a)(2).

[5] Based on information provided by Townline and comments from various agencies and tribes, OEA determined that a full EIS was not necessary. (*See* Draft EA 8–9.) Moreover, after considering the project's purpose and need, the information provided by Townline, agency comments, and OEA's independent analysis, OEA concluded that the proposed construction and operation was the only reasonable and feasible build alternative. Accordingly, the Draft EA addressed only the proposed action and a no-action alternative. (*See* Draft EA ii, 19.)

[6] OEA found that the proposed construction and operation would have no effect on historic properties because there are no historic properties present in the project area. (*See id.* at 52.)

[7] Specifically, OEA determined that construction and operation of the Line may affect the northern long-eared bat (NLEB), a federally listed endangered species, through the clearing of or disturbance to forested habitat, temporary construction noise and lighting, and operational lighting and noise. (Draft EA iii.) OEA's recommended mitigation included restrictions on construction-related tree removal and the use of lighting both during construction and train operation, and measures to minimize and mitigate soil compaction. (*Id.* at 62–63; *see also* Final EA 64 (recommending additional lighting restrictions).) OEA concluded that with these mitigation measures, and due to existing habitat conditions, the proposed construction and operation may affect but is unlikely to adversely affect the NLEB. (Draft EA iii; *see also id.* at 43 (explaining that all vegetated habitats within the study area exhibit substantial evidence of historical and ongoing disturbance, as well as high levels of human presence due to adjacent industrial site operations).)

[8] Agencies should supplement EAs if ''[t]here are substantial new circumstances or information about the significance of the adverse effects that bear on the analysis.'' 40 CFR 1501.5(h)(1)(ii); *cf. City of Olmsted Falls* v. *FAA,* 292 F.3d 261, 274 (D.C. Cir. 2002) (''[N]ew information [must] 'provide[ ] a *seriously* different picture of the environmental landscape.'" (quoting *Wisconsin* v. *Weinberger,* 745 F.2d 412, 418 (7th Cir. 1984))).

[9] In both the Draft EA and Final EA, OEA details the reasons it granted Townline's request for a waiver of the preparation of an EIS. (*See* Draft EA 8–9; Final EA, App. G at G–2 to G–3.) The Board finds that OEA's decision is both substantiated and in compliance with the applicable regulations. *See* 49 CFR 1105.6(d). The comments filed by the Fort Salonga and Townline Association provide no basis for revisiting OEA's decision to prepare an EA here. (*See* Fort Salonga Ass'n Comment 2, Feb. 21, 2023; Townline Ass'n Comment, Feb. 14, 2023 (Filing ID 306144); Townline Ass'n Comment, Feb. 5, 2024; Townline Ass'n Pet., July 18, 2024.)

which are set forth in the Appendix to this decision.

Conclusion

Construction and operation of the Line will connect CarlsonCorp's planned transloading facility to the interstate rail network, thereby supporting the shipment by rail of waste material from that facility off of Long Island. It will also provide a rail option to other shippers in the vicinity of the Line. With OEA's final recommended mitigation measures, there will be no potential for significant environmental impacts; indeed, the Line—which will be less than a mile long and located within an existing industrial area—will facilitate the diversion of traffic from truck to rail, thereby increasing overall energy efficiency and reducing emissions from trucks. After carefully considering the various rail transportation and environmental issues and the record as a whole, the Board finds that the petition for exemption to allow construction and operation of the Line should be granted, subject to compliance with the environmental mitigation measures set forth in the Appendix to this decision.

This action, as conditioned, will not significantly impact the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Townline's petition for an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct and operate the Line is granted as discussed above.

2. The Board adopts the environmental mitigation measures set forth in the Appendix to this decision and imposes them as conditions to the exemption granted here.

3. Townline Association's petition seeking a supplemental environmental review is denied.

4. Notice will be published in the **Federal Register**.

5. Petitions for reconsideration must be filed by September 4, 2024.

6. This decision is effective on the date of service.

Decided: August 14, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

Regena Smith-Bernard,

Clearance Clerk.

Appendix

Land Use and Zoning

VM-Land Use and Zoning–01. Townline and its contractor(s) will consult, as necessary, with directly abutting landowners for coordination of construction schedules and temporary access during project-related construction.

Air Quality and Climate Change

VM-Air Quality–01. Townline's contractor(s) will comply with the dust control permitting requirements of Suffolk County, Smithtown, and New York State Department of Environmental Conservation to the maximum extent practicable to reduce fugitive dust emissions created during project-related construction. Townline will also require its construction contractor(s) to regularly operate water trucks on haul roads to reduce dust generation.

VM-Air Quality-02. Townline will work with its contractor(s) to ensure project-related construction equipment is properly maintained, and that mufflers and other required pollution-control devices are in working condition in order to limit construction-related air pollutant emissions.

Noise and Vibration

VM-Noise–01. Townline will comply with Federal Railroad Administration regulations (49 CFR part 210) establishing decibel limits for train operation.

VM-Noise–02. Townline will work with its contractor(s) to make sure that project-related construction and maintenance vehicles are maintained in good working order with properly functioning mufflers to control noise.

Biological Resources

VM-Biological–01. Townline will not conduct construction-related tree removal for the Proposed Action during the Northern Long-eared Bat (NLEB) active season (March 1 to November 30) consistent with New York State Department of Environmental Conservation's NLEB active season for Suffolk County.

VM-Biological–02. During project-related construction, Townline will take steps to reduce the unnecessary removal of bat habitat by limiting tree removal to only the areas necessary to safely construct and operate the rail line, marking the limits of tree clearing through the use of flagging or fencing, and ensuring that construction contractors understand clearing limits and how they are marked in the field.

VM-Biological–03. During project-related construction, Townline will direct any temporary lighting away from suitable NLEB habitat during the active season for this species (March 1 to November 30). Townline will use downward-facing, full cut-off lens lights for any temporary lighting used during construction of the rail line.

VM-Biological–04. During project-related rail operations, Townline will use downward-facing, full cut-off lens lights (with the same intensity or less for replacement lighting) for the proposed permanent lights.

VM-Biological–05. Townline will require its contractor(s) to comply with the requirements of the Migratory Bird Treaty Act as applicable. The following measures will be taken by Townline and/or its contractor(s):

Where practical, any ground-disturbing, ground-clearing activities or vegetation treatments will be performed before migratory birds begin nesting or after all young have fledged.

If such activities must be scheduled to start during the migratory bird breeding season, Townline will not take steps to prevent migratory birds from establishing nests in the potential impact area. Townline or its agents will not haze or exclude nest access for migratory birds and other sensitive avian species.

If such activities must be scheduled during the migratory bird breeding season, a qualified biologist will perform a site-specific survey for nesting birds starting no more than seven days prior to ground-disturbing activities or vegetation treatments. Birds with eggs or young will not be hazed, and nests with eggs or young will not be moved until the young are no longer dependent on the nest.

If nesting birds are found during the survey, Townline will establish appropriate seasonal or spatial buffers around nests. Vegetation treatments or ground-disturbing activities within the buffer areas will be postponed, where feasible, until the birds have left the nest. A qualified biologist will confirm that all young have fledged.

MM-Biological–01. During project-related construction, Townline will minimize, to the extent practicable, soil compaction in temporarily disturbed areas, provide surface treatments (*e.g.,* break up compacted soil) for any compacted soils, and take actions to promote vegetation regrowth.

MM-Biological–02. Townline's permanent lighting will consist of 2.0 footcandles at a height not to exceed 25 feet.

Hazardous Materials Release Sites

VM-Hazardous Materials Sites–01. Townline will require its construction contractor(s) to implement measures to protect workers' health and safety and the environment in the event that undocumented hazardous materials, if any, are encountered during project-related construction. Townline will document all activities associated with hazardous material spill sites and hazardous waste sites, if any, and will notify the appropriate state and local agencies according to applicable regulations. The goal of these measures is to ensure the proper handling and disposal of contaminated materials, including contaminated soil, groundwater, and stormwater, if such materials are encountered. Townline will use disposal methods that comply with applicable solid and hazardous water regulations.

MM-Hazardous Materials Sites–01. Townline shall follow American Society of Testing and Materials E1527–05, Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process in areas where potential contamination could be encountered. If Townline encounters contamination (or signs of potential contamination) during these activities, Townline shall promptly perform a Phase 2 environmental investigation. Should findings of a Phase 2 environmental investigation identify contamination in soil and/or groundwater, Townline shall coordinate with relevant New York state agencies on regulatory obligations and comply with those agencies' reasonable

requirements for avoiding impacts related to soil and/or groundwater contamination.

[FR Doc. 2024–18538 Filed 8–19–24; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2024–1390; Summary Notice No. 2024–35]

Petition for Exemption; Summary of Petition Received; Win Win Aviation Inc.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 9, 2024.

ADDRESSES: Send comments identified by docket number FAA–2024–1390 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Shannon Uplinger, (202) 267–9677, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2024–1390.
Petitioner: Win Win Aviation Inc.
Section(s) of 14 CFR Affected: § 119.1(e)(6).
Description of Relief Sought: Win Win Aviation Inc. requests relief to conduct military parachute operations in support of U.S. Air Force (USAF) rescue squadrons at Lake Roosevelt, Arizona at a distance greater than 25 miles from the planned San Carlos Apache Airport P–13 departure location. The petitioner asserts that use of San Carlos Apache Airport P–13 instead of the Grapevine Airstrip, which it presently uses for these operations, will enhance safety for its flight crews and the USAF rescue personnel.

[FR Doc. 2024–17930 Filed 8–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2024–0057]

Notice of Intent To Prepare an Environmental Impact Statement for a Proposed Highway Project; Adams and Denver Counties, Colorado (Identification Number FHWA–CO–EIS–24–001)

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (USDOT).

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

SUMMARY: The FHWA in coordination with the Colorado Department of Transportation (CDOT) is issuing this Notice of Intent (NOI) to solicit comment and advise the public, agencies, and stakeholders that an Environmental Impact Statement (EIS) will be prepared for transportation improvements to the Interstate 270 (I–270) Corridor. The I–270 Corridor Improvements Project is located in the City of Commerce City, Adams County, and City and County of Denver in the State of Colorado. The study limits include the full extent of I–270 from Interstate 25 (I–25) to Interstate 70 (I–70) (approximately 6.5 miles). I–270 is a controlled-access interstate highway with two through lanes in each direction. Persons and agencies who may be interested in or affected by the proposed project are encouraged to comment on the information in this NOI and the NOI Additional Information document. All comments received in response to this NOI will be considered and any information presented herein, including the preliminary purpose and need, preliminary alternatives and identified impacts, may be revised in consideration of the comments.

DATES: Comments on the NOI or the NOI Additional Information documents must be received on or before September 19, 2024.

ADDRESSES: This NOI and the NOI Additional Information document are available in the docket referenced above at *www.regulations.gov* and on the project website located at *www.codot.gov/projects/studies/i270study*. The NOI Additional Information document will also be mailed upon request. All interested parties are invited to submit comments by any of the following methods:

- *Website:* For access to the documents, go to the Federal Rulemaking Portal located at *www.regulations.gov* or the project website located at *www.codot.gov/projects/studies/i270study.* Follow the online instructions for submitting comments at *www.regulations.gov.*
- *Mailing address or for hand delivery or courier:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590.

All submissions should include the agency name and the docket number that appears in the heading of this Notice. All comments received will be posted without change to *www.regulations.gov* or *www.codot.gov/projects/studies/i270study* including any personal information provided. The Draft EIS will include a summary of the comments received.

FOR FURTHER INFORMATION CONTACT: Federal Highway Administration, Colorado Division, Attention: Chris Horn, Senior Area Engineer, 12300 W Dakota Ave #180, Lakewood, Colorado 80228; Email: *Chris.Horn@dot.gov;* Telephone: 720–963–3017; or Colorado Department of Transportation—Region 1, Attention: David Merenich, I–270 Project Director, 2829 West Howard Place, Denver, Colorado 80204; Email: *david.merenich@state.co.us;* Telephone: 720–933–5755; or I–270 Project Email: *cdot_i270@state.co.us.*

Persons interested in receiving project information can also use the project email address referenced above to be added to the project mailing list.

SUPPLEMENTARY INFORMATION: The FHWA and CDOT are committed to public involvement in this project. All public comments received in response to this NOI will be considered and potential revisions made to the information presented herein as appropriate. FHWA as the lead Federal agency, and CDOT as joint lead agency/project sponsor, are preparing an EIS to evaluate transportation solutions on I–270 between I–25 and I–70 in Adams and Denver Counties, Colorado. The EIS for the I–270 Corridor Improvements Project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 United States Code [U.S.C.] 4321, *et seq.*), 23 U.S.C. 139, Council on Environmental Quality (CEQ) regulations implementing NEPA (40 Code of Federal Regulations [CFR] part 1500–1508), FHWA regulations implementing NEPA (23 CFR part 771) and all other applicable Federal, State, and local laws and regulations.

CDOT and FHWA started an environmental review of the I–270 Corridor in 2020. The agencies were working toward an Environmental Assessment (EA). The EA process was paused in late 2022 when CDOT decided that a more detailed environmental review was needed. Therefore, CDOT and FHWA are now initiating an EIS to evaluate the environmental impacts of the I–270 corridor transportation improvements.

To ensure that a full range of issues are addressed in the EIS and potential issues are identified, comments and suggestions are invited from all interested parties. FHWA requests comments and suggestions on the purpose and need, potential project alternatives and impacts, and the identification of any relevant information, studies, or analyses of any kind concerning impacts to the quality of the human and natural environment. The purpose of this request is to bring relevant comments, information, and analyses to the attention of FHWA and CDOT, as early in the process as possible, to enable the agency to make maximum use of this information in decision making.

Preliminary Purpose and Need

The preliminary purpose of the I–270 Corridor Improvements project is to implement transportation solutions that modernize the I–270 corridor to accommodate the existing and forecasted transportation demands.

The identified transportation needs are as follows:

- Traveler safety on the corridor
- Travel time and reliability on the corridor
- Transit on the corridor
- Bicycle and pedestrian connectivity across I–270
- Freight operations on the corridor

In addition to addressing project needs, CDOT, FHWA, Cooperating, and Participating Agencies have established a key project goal: to minimize the environmental and community impacts resulting from the project. The purpose and need statement may be revised based on comments received during the comment period on this Notice.

Preliminary Project Alternatives

The preliminary alternatives under consideration are summarized below and were developed with public and agency input through the early scoping process. The Lead Agencies will consider agency and public comments received during the NOI comment period, and these alternatives (and other information presented in the NOI) are subject to change based on input.

The preliminary alternatives will go through a screening process, informed by public and agency input through the scoping process. As a result of the screening process, one or more of the preliminary alternatives may be screened out and not fully analyzed in the EIS or other alternatives may be added.

No Action Alternative

The No Action Alternative would maintain the existing highway configuration of two general-purpose travel lanes in each direction. Bridges and pavement would continue to be maintained and repaired but underlying infrastructure deficiencies would remain.

Bicycle, Pedestrian, and Transit Enhancements Alternative

The Bicycle, Pedestrian, and Transit Enhancements Alternative would focus on improvements to bicycle, pedestrian, and transit connections in the community in lieu of additional highway capacity. It would include substantial ongoing maintenance and rehabilitation of existing highway structures and pavement and would retain the existing highway configuration.

Minimal Build Alternative

The Minimal Build Alternative would not add lane capacity to I–270 but would rebuild infrastructure, including replacing bridges that are reaching the end of their useful life, and addressing pavement condition and subsurface settling. It would also include safety improvements, such as widening shoulders and redesigning the I–76, York Street, Vasquez Boulevard, and Quebec Street interchange on- and off-ramps to provide adequate acceleration and deceleration lanes to meet design standards.

Three General-Purpose Lanes Alternative

The Three General-Purpose Lanes Alternative would include the safety improvements and interchange reconfigurations included in the Minimal Build Alternative. It would also add one general-purpose travel lane in each direction, for a total of three general-purpose lanes in each direction through the corridor. It would reconstruct other highway infrastructure to accommodate the widened highway footprint and modernize the existing infrastructure. Transit would remain in the general-purpose lanes as service exists today.

Two General-Purpose Lanes and One Transit-Only Lane Alternative

The Two General-Purpose Lanes and One Transit-Only Lane Alternative would include the safety improvements and interchange reconfigurations included in the Minimal Build Alternative. It would also add one new transit-only travel lane in each direction through the corridor for a total of two general-purpose lanes and one transit-only lane in each direction through the corridor. It would reconstruct other highway infrastructure to accommodate the widened highway footprint and modernize the existing infrastructure.

Two General-Purpose Lanes and One Express Lane That Accommodates Transit Alternative

The Two General-Purpose Lanes and One Express Lane that Accommodates Transit Alternative would include the safety improvements and interchange reconfigurations included in the

Minimal Build Alternative. It would add one new travel lane in each direction through the corridor. The new lane would be operated as an Express Lane. Transit vehicles and high-occupancy vehicles (3 or more people) could travel in the express lane free of charge. Other travelers, including freight trucks, who choose to pay a fee could also use the new Express Lane. It would reconstruct other highway infrastructure to accommodate the widened highway footprint and modernize the existing infrastructure.

Three General-Purpose Lanes and One Express Lane That Accommodates Transit Alternative

The Three General-Purpose Lanes and One Express Lane that Accommodates Transit Alternative would include the safety improvements and interchange reconfigurations included in the Minimal Build Alternative. It would add two travel lanes in each direction: one general-purpose lane and one Express Lane for an overall configuration of three general-purpose lanes and one Express Lane in each direction through the corridor. Transit vehicles and high-occupancy vehicles (3 or more people) could travel in the Express Lane free of charge. Other travelers, including freight trucks, who choose to pay a fee could also use the new Express Lane. It would reconstruct other highway infrastructure to accommodate the widened highway footprint and modernize the existing infrastructure.

Two General-Purpose Lanes and Two Express Lanes That Accommodate Transit Alternative

The Two General-Purpose Lanes and Two Express Lanes that Accommodate Transit Alternative would include the safety improvements and interchange reconfigurations included in the Minimal Build Alternative. It would add two new travel lanes in each direction. The two new lanes would be operated as Express Lanes. Transit vehicles and high-occupancy vehicles (3 or more people) could travel in the Express Lane free of charge. Other travelers, including freight trucks, who choose to pay a fee could also use the new Express Lanes. It would reconstruct other highway infrastructure to accommodate the widened highway footprint and modernize the existing infrastructure.

Summary of Anticipated Impacts

The EIS will evaluate the potential social, economic, and environmental effects resulting from implementation of the build alternatives and the no build alternative. FHWA and CDOT will seek input from the public and agencies during the EIS development process regarding the effects of the project. CDOT and FHWA will evaluate effects to environmental and community resources in accordance with their NEPA guidance and procedures. The following environmental issues and considerations have been identified by the public and agencies as requiring the most attention in the environmental review process.

Environmental Justice Communities. The build alternatives have the potential to affect low income and minority populations. Preliminary data collection shows the neighborhoods surrounding the proposed project should be considered environmental justice communities. There is potential for the build alternatives to have impacts to these communities due to noise, air quality, financial impacts, and other factors.

Air Quality and Greenhouse Gas Emissions (GHGs). The build alternatives have the potential to impact air quality. The project will model air emissions for transportation-related criteria pollutants: carbon monoxide (CO), nitrogen dioxide (NO_2), particulate matter of 10 microns or less in diameter (PM_{10}), particulate matter of 2.5 microns or less in diameter ($PM_{2.5}$), and ozone (O_3) precursors [nitrogen oxides (NO_X), and volatile organic compounds (VOCs)], as well as mobile source air toxics (MSATs) and GHGs.

Noise. The build alternatives have the potential to increase traffic noise within neighborhoods surrounding the highway. Additionally, construction of a build alternative may have the potential for temporary noise increases within the neighborhoods surrounding the highway.

Water Quality. The build alternatives have the potential to impact water quality. The project will include permanent and temporary control measures to reduce stormwater runoff to surrounding waters.

Wetlands and Waters of the U.S. The build alternatives may require dredge and/or fill of waters of the U.S. and impacts to wetlands, which may require a permit from the U.S. Army Corps of Engineers.

Hazardous Materials. The project area includes areas of known soil and groundwater contamination that could be disturbed during the construction of the build alternatives.

Right of Way (ROW). The build alternatives may require acquisition of right-of-way and/or easements. The build alternatives are expected to require some partial property acquisition and temporary easements. Some of the build alternatives may require residential or commercial relocations.

The EIS will evaluate the expected impacts and benefits to the resources identified above as well as other resources. The level of review of the identified resources for the EIS will be commensurate with the anticipated impacts to each resource from the proposed project and will be governed by the statutory or regulatory requirements protecting those resources. The analyses and evaluations conducted for the EIS will identify the potential for impacts; whether the anticipated impacts would be adverse; and the appropriate environmental mitigation measures. Additional information on the expected impacts is provided in the NOI Additional Information document available for review in the docket established for this project and on the project website as noted in the **ADDRESSES** section. The FHWA and CDOT are inviting public input during the NOI comment period. The resources identified for impact analysis in the EIS may be revised due to the consideration of public comments.

Anticipated Permits (and Other Authorizations)

Federal, State, and local agency permits, and other authorizations, are anticipated to be needed for implementation of a build alternative. Railroad agreements are also anticipated. Lists of the specific permits anticipated are included in the NOI Additional Information document.

Schedule for the Decision-Making Process

The project schedule follows the requirements of the environmental review process under 23 U.S.C. 139 and will comply with 40 CFR 1501.10(b)(2), which requires that environmental reviews for major infrastructure projects occur within 2 years (from the date of publication of the NOI) to the date of issuance of the ROD. The Draft EIS is anticipated to be issued between late 2024 and early 2025. A public comment period and public hearing will follow the publication of the Draft EIS. The Final EIS and ROD document(s) is anticipated to be issued between late 2025 and early 2026, within 24 months of the publication of this NOI per 23 U.S.C. 139(d)(10). Per 23 U.S.C. 139(d)(10), permits and authorizations should be completed by no later than 90 days after the issuance of the Record of Decision. However, for this project CDOT has requested in accordance with 23 U.S.C. 139(d)(10)(C)(ii) that the 404 permit and 401 water quality certifications follow a different timeline

because the construction date is not expected until 2026 or later.

Scoping and Public Review

The project team developed an Agency Coordination Plan and a Public Involvement Plan. These plans will guide CDOT through the scoping and public review process. The Public Involvement Plan and the Agency Coordination Plan are attached to the NOI Additional Information Document.

CDOT and FHWA identified agencies with jurisdiction over resources within the study area. On June 8, 2023, FHWA and CDOT conducted an agency coordination meeting. After the meeting agencies were formally contacted by FHWA through the United States Postal Service and email to determine Cooperating and Participating Agency status. Another agency coordination meeting was held on November 1, 2023. Additional meetings with Cooperating and Participating Agencies will be held throughout the environmental review process. The Agency Coordination Plan and Public Involvement Plan included within the NOI Additional Information Document describes how the public and agencies will continue to be engaged during EIS development.

The project held a public open house on October 10, 2023, at the Eagle Pointe Recreation Center (Commerce City), to present the draft purpose and need and the draft proposed alternatives to the public. The public open house had 81 participants sign in to the event; attendees were highly engaged and provided detailed comments and thoughts. Participants were a mixture of local residents, commuters, interested groups, agency staff, and elected officials. A summary of the October public open house is available on the project website. Agencies were briefed on the public open house and input received at the November 1, 2023, agency coordination meeting.

In December 2023, CDOT hosted community ''listening sessions'' to gather additional feedback from area residents. The listening sessions were held at community locations in the study area; all included Spanish and English-speaking staff. CDOT has also conducted numerous one-on-one meetings with stakeholders.

Additional public and agency meetings are planned before the Draft EIS is published, and the Draft EIS will be available for public and agency review and comment prior to the Public Hearing.

Request for Identification of Potential Alternatives, Information, and Analyses Relative to the Proposed Action

To ensure that a full range of issues related to the study are addressed and all potential issues are identified, FHWA and CDOT invite comments and suggestions from the public and all federal, state, tribal, and local agencies. FHWA and CDOT request comments and suggestions on potential alternatives and impacts, and the identification of any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment. Specifically, agencies and the public are asked to identify and submit potential alternatives for consideration and any information, such as anticipated significant issues or environmental impacts and analyses relevant to the proposed action, will be considered by the Lead and Cooperating agencies in developing the Draft EIS. Comments must be received by September 19, 2024. Any information presented herein, including the preliminary purpose and need, preliminary range of alternatives and identification of impacts may be revised after consideration of the comments. The purpose of this request is to bring relevant comments, information, and analyses to the Lead Agencies' attention, as early in the process as possible, to enable the agencies to make maximum use of this information in decision making.

There are several methods to submit comments as described in the **ADDRESSES** section of this notice. Any questions concerning this proposed action, including comments relevant to alternatives, information, and analyses, should be directed to FHWA or CDOT at the physical addresses, email addresses, or phone numbers provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 42 U.S.C. 4321 *et seq.;* 23 U.S.C. 139; 23 CFR part 771.

John M. Cater,

Division Administrator, Lakewood, Colorado, Federal Highway Administration.

[FR Doc. 2024–18587 Filed 8–19–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0052; Notice 1]

Toyo Tire Holdings of Americas, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Toyo Tire Holdings of Americas, Inc. (Toyo Tire) has determined that certain Proxes ST III passenger tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* Toyo Tire filed a noncompliance report dated July 19, 2023, and subsequently petitioned NHTSA (the ''Agency'') on August 17, 2023, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Toyo Tire's petition.

DATES: Send comments on or before September 19, 2024.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If

comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655–0547.

SUPPLEMENTARY INFORMATION:

I. Overview: Toyo Tire determined that certain Proxes ST III passenger tires do not fully comply with paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139).

Toyo Tire filed a noncompliance report dated July 19, 2023, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Toyo Tire petitioned NHTSA on August 17, 2023, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Toyo Tire's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Tires Involved: Approximately 232 Toyo Proxes ST III passenger tires, manufactured between May 21, 2023, and May 27, 2023, were reported by the manufacturer.

III. Noncompliance: Toyo Tire explains that the noncompliance is due to a mold error causing the subject tires to contain a tire identification number (TIN) with a three-digit date code rather than a four-digit date code as required by paragraph S5.5.1(b) of FMVSS No. 139 and 49 CFR part 574. Specifically, the subject tires were marked with an incorrect date code of ''213'' rather than the compliant four-digit date code, ''2123.''

IV. Rule Requirements: Paragraph S5.5.1(b) of FMVSS No. 139 and 49 CFR 574.5(b)(3) include the requirements relevant to this petition. Each tire (manufactured on or after September 1, 2009) must be labeled with the TIN, as required by 49 CFR part 574, on the intended outboard sidewall of the tire. The date code, consisting of four numerical symbols, is the final group of the TIN and must identify the tire's week and year of manufacture. The first and second symbols of the date code must identify the week of the year by using ''01'' for the first full calendar week in each year, ''02'' for the second full calendar week, and so on. The third and fourth symbols of the date code must identify the last two digits of the year of manufacture.

V. Summary of Toyo Tire's Petition: The following views and arguments presented in this section, ''V. Summary of Toyo Tire's Petition,'' are the views and arguments provided by Toyo Tire. They have not been evaluated by the Agency and do not reflect the views of the Agency. Toyo Tire describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Toyo Tire states that, except for the subject noncompliance, the affected tires comply with the performance and labeling requirements of FMVSS No. 139 and the requirements of 49 CFR part 574. Toyo Tire also says that it is not aware of any complaints or injuries related to the subject tires.

Toyo Tire summarizes NHTSA's regulatory history for tire labeling requirements and the purpose of these requirements, specifically relating to the date code. Toyo Tire asserts that the TIN date code ''primarily serves to facilitate identification of tires in the event the tires need to be recalled for a noncompliance that is consequential to safety or for a safety related defect.'' Toyo Tire also notes NHTSA's view that the date code offers consumers valuable information regarding the actual age of the tire.

Toyo Tire argues that the incorrect date code on the subject tires would not hinder the identification and notification process in the event of a recall. Toyo Tire explains that the date code accurately indicates the week of the subject tires' manufacture but is missing a character indicating the year of manufacture. Toyo Tire says that despite being noncompliant, these TINs uniquely identify the tires, enabling consumers to accurately identify them in the event of a recall.

Toyo Tire contends that prior Agency decisions on petitions for inconsequential noncompliance involving ''incorrect date codes, missing date codes, misplaced date codes, and inverted date codes'' were granted because NHTSA found that the noncompliance did not inhibit the identification of the affected tires. Toyo Tire offers the following as examples:

1. Bridgestone/Firestone, Inc., (Toyo Tire incorrectly cites Cooper Tire & Rubber Co.) Grant of Petition for Decision of Inconsequential Noncompliance, 71 FR 4396 (Jan. 26, 2006). In that decision, the agency agreed that the missing date code was inconsequential because a consumer notification of a recall of the tires could be accomplished by referring to the noncompliant TIN.

2. Bridgestone/Firestone, Inc., Grant of Application for Decision of Inconsequential Noncompliance, 60 FR 57617 (Nov. 16, 1995). In this decision NHTSA agreed that placing the date code at the beginning of the TIN rather than at the end was inconsequential in this case because enough information exists on the tires to trace the tires back to their plant of manufacture should a future recall be required. Additionally, any recall notification letter would explain the transposed marking so that owners could properly identify the tires.

3. Yokohama Tire Corp., Grant of Petition for Decision of Inconsequential Noncompliance, 71 FR 33333 (Jun. 8, 2006). In this decision, NHTSA agreed that exceeding the spacing limit for the date code in the TIN was inconsequential to safety in this case because correct information is present, and it is therefore likely to achieve the safety purposes of the requirement.

4. Cooper Tire & Rubber Co., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 43708 (Jul. 5, 2016). In this decision, the affected tires contained an inverted date code and NHTSA agreed with the petitioner that

the error was inconsequential to safety because it is not likely to be misidentified.

Toyo Tire believes that the granting of its petition would align with NHTSA's decisions on these prior petitions because the date code on the subject tires provides adequate information for consumers to properly identify the tires and for the tires to be properly traced to the manufacturing plant. Toyo Tire says that it has also updated its website to accept a 12-digit TIN, allowing consumers to register the tires with the incorrectly marked date code.

Toyo Tire says that the subject tires contain a unique 12-digit TIN, as opposed to the standard 13 digits for properly labeled tires, ensuring that there will be no duplication in the future. Toyo Tire explains that the mislabeling occurred at the manufacturing plant during a period when a manual process was temporarily being used to enter codes into a new piece of equipment used for stamping the TIN plates. Toyo Tire says that it has since corrected this issue by implementing an automated process that directly transmits the codes to the stamping equipment. Additionally, Toyo Tire says that it has revised its quality inspection process to ensure that the date code is verified by two people each time a new plate is installed into a mold. Toyo Tire notes that in the aforementioned 2016 Cooper Tire decision 81 FR 43708, the nature of the labeling error did not prevent the correct identification of the affected tires. Similarly, Toyo Tire contends that the subject noncompliance is inconsequential to motor vehicle safety because the affected tires otherwise comply with the marking and performance requirements of FMVSS No. 139, and the primary purpose of the TIN markings is fulfilled.

Next, Toyo Tire argues that the incorrectly marked date code on the subject tires is unlikely to mislead consumers as to the age of the tire. According to Toyo Tire, NHTSA's secondary purpose in adopting the four-digit date code was to prevent confusing consumers with respect to the actual age of the tire. Expanding the date code from three digits to four would result in more accurate date codes, simplifying the process for prospective consumers to determine the age of the tires they are considering purchasing.

Toyo Tire then cites NHTSA's tire aging work published in March 2014 and states that NHTSA found that adding a tire aging requirement to FMVSS No. 139 was unnecessary.

Overall, Toyo Tire says that NHTSA's safety concerns regarding tire aging were attenuated based on the improved standards in FMVSS No. 139 and mandatory tire-pressure monitoring systems. Furthermore, Toyo Tire asserts that the data that raised aging concerns primarily came from states in the Sun Belt Region and, as a result, NHTSA shifted its focus toward consumer awareness programs. Based on this focus, Toyo Tire says NHTSA's determinations on inconsequentiality petitions concerning the date code have distinguished between noncompliances where mislabeling would not mislead consumers about the actual age of the tires and those where mislabeling would lead consumers to believe the tires were newer than they actually are. Toyo Tire provides NHTSA's decision on another petition by Cooper Tire (86 FR 47726; Aug. 26, 2021) as an example, in which the affected tires contained the date code ''1723'' rather than the correct date code ''2317''. Toyo Tire states this petition was denied due to concerns that dealers may store tires for multiple years before selling them, leading to potential confusion for consumers regarding the tires' actual age. Additionally, while steps to identify the mislabeling were acknowledged, Toyo Tire says NHTSA determined that these actions did not negate the safety risk caused by the incorrect date code as tires may not be registered or may change hands subsequent to registration. In its rationale, Toyo Tire says that NHTSA specifically differentiated this case from a 1998 petition by Cooper Tire where NHTSA determined that the absence of a date code on the affected tires was inconsequential to vehicle safety. In that case, Toyo Tire says NHTSA found that the missing date code did not mislead consumers about the age of the tire. Conversely, NHTSA granted a petition by Michelin North America (MNA) where the date code was mislabeled as ''0126'' rather than ''0216.'' (81 FR 76412; Nov. 2, 2016). Toyo Tire believes that the subject noncompliance will not impact customers' ability to identify the subject tires in the event of a recall because Toyo Tire is accepting registration cards and internet registrations for the mislabeled tires, and they are prepared to address inquiries from customers regarding the subject tires. Toyo Tire believes these points support a grant of its petition.

Toyo Tire argues that the three-digit date code on the subject tires does not have the misleading effect found in NHTSA's 2021 denial of the Cooper Tire petition. Unlike the mislabeling in the denied Cooper Tire petition, the three-digit date in the subject tires would not mislead purchasers as to the age of the tire. The missing digit causes the date code to not conform to a compliant four-digit date code and cannot be interpreted as a future date code. Toyo Tire contends that because NHTSA discontinued the use of three-digit date codes over 20 years ago, any confusion regarding the date code is more likely to suggest that the tire is significantly older than it actually is. Toyo Tire further explains that the mislabeled date code on the subject tires would indicate that the tires were manufactured in the 21st week of 1993, over 30 years ago. Overall, Toyo Tire believes that consumers will readily notice the incorrect date code if they consult online sources to interpret it.

Toyo Tire adds that while NHTSA did not express concerns about tire aging in the MNA decision (81 FR 76412; Nov. 2, 2016), the impact of the mislabeling in that case is comparable to the subject noncompliance. Toyo Tire says that other possible interpretations of the subject noncompliance would be that the tires were manufactured in 2013 (based on the last two digits, ''13'') or in 2021 (based on the first two digits, ''21'') Since the actual year of manufacture for the subject tires is 2023, either of these interpretations would again suggest that the tires are older than they actually are and would not pose a risk of the consumer using the subject tire beyond its maximum service life. Toyo Tire notes that, in contrast, Cooper Tire's petition was denied because the tires would appear newer than their actual age.

Toyo Tire says that it recognizes the possibility that the mislabeled date code on the subject tires could be mistaken as indicating the year of manufacture as ''2033,'' 2043,'' ''2053,'' etc. However, Toyo Tire considers this risk remote, given these years are far in the future. Toyo Tire believes that the risk is comparable to the mislabeled date code in MNA's petition (81 FR 76412, Nov. 2, 2016), which NHTSA deemed inconsequential to motor vehicle safety. Further, Toyo Tire believes that the subject noncompliance poses an even lesser risk than MNA's noncompliance because the three-digit date code is more likely to indicate an error. Therefore, Toyo Tire is confident that consumers will not be misled into believing that the subject tires are newer than their actual date of manufacture, and the subject noncompliance does not create a risk that the tire would be used beyond the maximum service life.

Toyo Tire concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be

exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Toyo Tire no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Toyo Tire notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2024–18578 Filed 8–19–24; 8:45 am]

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